FEDERAL REGISTER

VOLUME 24 NUMBER 235

Washington, Thursday, December 3, 1959

Title 3—THE PRESIDENT

Proclamation 3326

ESTABLISHING THE TUSKEGEE NATIONAL FOREST, ALABAMA, THE OCONEE NATIONAL FOREST, GEORGIA, AND THE TOMBIGBEE NATIONAL FOREST, MISSISSIPPI

By the President of the United States of America

A Proclamation

WHEREAS certain lands in the States of Alabama, Georgia, and Mississippi have been acquired by the United States under the authority of the National Industrial Recovery Act, approved June 16, 1933 (48 Stat. 202), the Emergency Relief Appropriation Act of 1935, approved April 8, 1935 (49 Stat. 115), or Title III of the Bankhead-Jones Farm Tenant Act, approved July 22, 1937 (50 Stat. 525), as amended (7 U.S.C. 1010–1012), for use in connection with the Tuskegee, Piedmont, North Central, Northeast Mississippi, and Natchez Trace Land Utilization Projects; and

WHEREAS, by reason of the transfer effected by Executive Order No. 7908 of June 9, 1938, as amended by Executive Order No. 8531 of August 31, 1940, such projects are now being administered pursuant to Title III of the Bankhead-Jones Farm Tenant Act; and

WHEREAS it appears that such lands are suitable for national-forest purposes and that it would be in the public interest to reserve them as national forests; and

WHEREAS it appears desirable to include within the exterior boundaries of such national forests certain State and privately-owned lands which are so intermingled with the lands owned by the United States that segregation thereof is impracticable; and

WHEREAS some of such lands owned by the United States are under lease to Soil Conservation Districts or to individuals, and it is desirable that such leases remain in force and effect until terminated as provided therein;

NOW, THEREFORE, I, DWIGHT D. EISENHOWER, President of the United States of America, by virtue of the authority vested in me by section 24 of the act of March 3, 1891, 26 Stat. 1103, as amended (16 U.S.C. 471), and upon recommendation of the Secretary of Agriculture, do proclaim that, subject to the aforementioned leases and other valid existing rights, there are hereby reserved and set apart as the Tuskegee National Forest, Alabama, the Oconee National Forest, Georgia, and the Tombigbee National Forest, Mississippi, respectively, all lands of the United States within the areas hereinafter described which have been acquired by the United States under authority of the National Industrial Recovery Act, the Emergency Relief Appropriation Act of 1935, or Title III of the Bankhead-Jones Farm Tenant Act, and which are being administered as parts of the aforementioned land utilization projects:

TUSKEGEE NATIONAL FOREST—ALABAMA

ST. STEPHENS MERIDIAN

T. 17 N., R. 24 E.,
Secs. 1 and 2;
Sec. 3, that part lying east of Miles Creek;
Sec. 10, that part lying southeast of Choctafaula Creek;
Secs. 11, 12, 14, 15, 16, 21, 22, 27, 28, 29 and 33.
T. 18 N., R. 24 E.,
Secs. 35 and 36.
T. 17 N., R. 25 E.,
Secs. 4 to 8, inclusive, secs. 17 and 18.
T. 18 N., R. 25 E.,
Secs. 31 and 32.

OCONEE NATIONAL FOREST—GEORGIA

Beginning at a point where State Highway 16 crosses the Ocmulgee River, thence along the north right-of-way line of said highway approximately six-tenths (0.6) of a mile to the intersection of line S–1 to S–2 of U.S. Tract No. "S"; thence northeasterly with said line to corner S–1; thence southeasterly with line S–1 to S–7, to the northerly right-of-way line of State Highway No. 16; thence along the northerly right-of-way line of said highway approximately six miles to the Shepherd Farm—Apalachian Mineral Company Road; thence in a southeasterly direction with said road approximately four and one-half (4.5) miles to a point on the east side of said road; thence in a northeasterly direction in line with corners G–3 and G–4 of Tract "G" to

(Continued on p. 9653)

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THE PRESIDENT

EXECUTIVE AGENCIES

FEDERAL REGISTER

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CODIFICATION GUIDE

A numerical list of the parts of the Code of Federal Regulations affected by documents published in this issue. Proposed rules, as opposed to final actions, are identified as such.

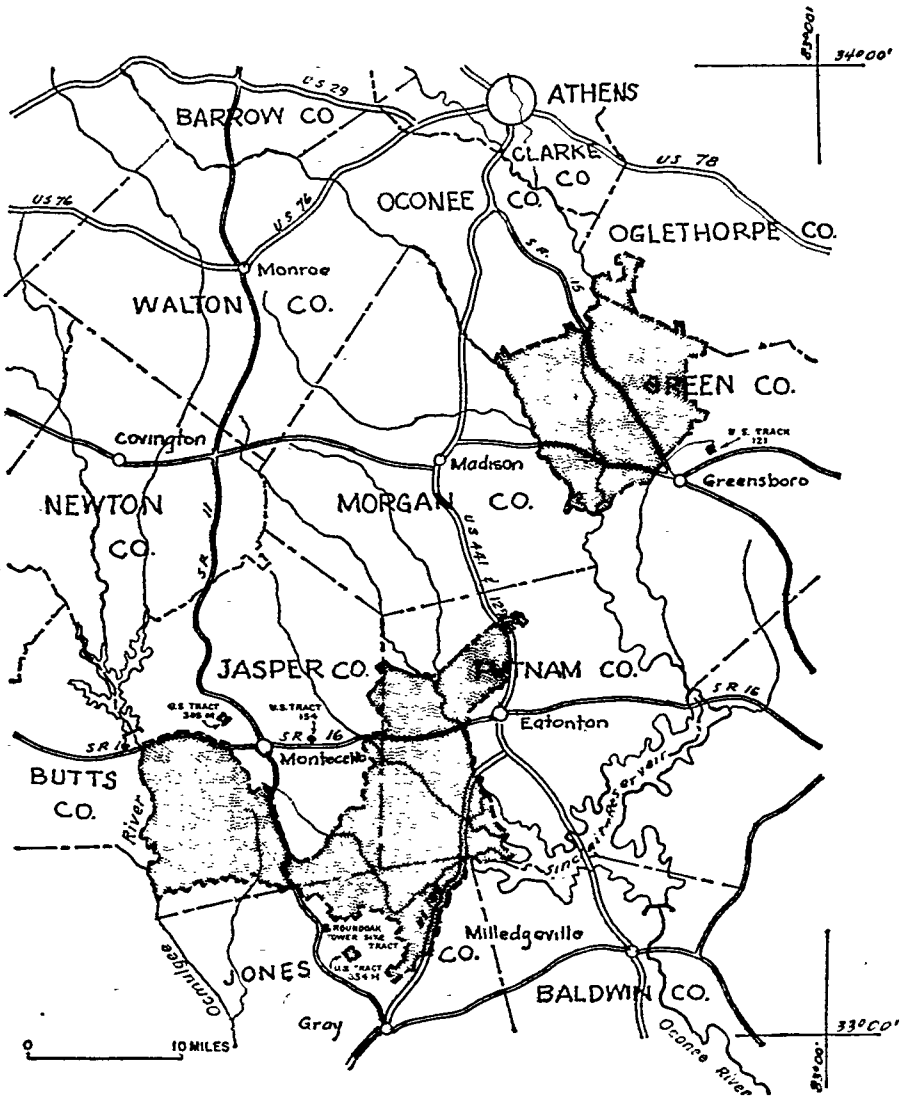
A Cumulative Codification Guide covering the current month appears at the end of each issue beginning with the second issue of the month.

corner G–4; thence southeasterly with line of Tract "G" to corner G–5; thence to the northwesterly right-of-way line of State Highway No. 11; thence southeasterly with said highway right-of-way line approximately five and one-half (5.5) miles to the southerly right-of-way line of the Hillsboro-Goolsby Road running northeasterly; thence with the easterly right-of-way line of the Henderson Grove-Wolf Creek Road in a northeasterly direction approximately sixteen and a quarter (16.25) miles to a point on a line of Tract "PB"; thence northwesterly with said line to corner PB–4; thence with line to corner PB–5 and continuing on same course to a point on the Jasper-Putnam County line; thence north with said county line to Tract No. "OB"; thence with lines of said tract to corner OB–2 on the northerly edge of the Old Monticello-Eatonton Highway; thence easterly with said highway approximately two (2.0) miles to a point on line of Tract "LB"; thence with lines of said tract to corner LB–13 on the south bank of Little River; thence down and with the meanders of the right bank of said River to the Presley Mill road; thence northeasterly with the Presley Mill-Glades Road past Reid's Crossroads and Union Chapel to State Highway No. 24 (U.S. 129) at corner 15 of Tract "NB"; thence southeasterly with said highway to point on line between corners 17–18 of Tract "NB"; thence with the lines of said tract to a point on line between corners 22–23 of Tract "NB" on the southeasterly right-of-way line of the Gooch-Tompkins Road; thence in a southerly direction with said road and State Highway No. 24 (U.S. 129) passing Florence School, approximately four and eight-tenths (4.8) miles to corner 41 of Tract "KB"; thence with the road forming the boundary of said tract to its intersection with the Eatonton-Reid's Crossroads Road; thence following the Hearn Farm Road southeasterly and in a general westerly direction to a point on the Imperial Mills-Little River Road northeast of corner 8 of Tract "KB"; thence southwesterly and in line with corners 8–9 of said tract to corner No. 9; thence on line projected to corner No. 4 of Tract "MB"; thence with tract boundaries, corners 4, 5, 6 to corner No. 7, a point on the north bank of Little River; thence down with the meanders of the left bank of said River to a point northeast of corner 11 of Tract "CB"; thence southwest in line with corners CB–11, CB–12 to corner 12 on the northeasterly side of the Resseau Store to Sinclair Lake Road; thence in a southeasterly and southwesterly direction with Sinclair Lake Road to the north bank of Cedar Creek, the Putnam-Baldwin County Line; thence westerly up with the meanders of the left bank of Cedar Creek to the east right-of-way line of State Highway No. 44 (U.S. 129); thence down and with the easterly right-of-way line of said Highway passing the communities of Ethridge and Blountsville to a point east of corner No. 40 of Tract "O"; thence west to corner No. 40 of said tract; thence with the lines of Tract "O" to corner No. 18 on the northerly right-of-way line of the Stewart's Chapel-Round Oak Road; thence northwesterly with said right-of-way of the Stewart's Chapel Road to a point on line between corners 42–43 of Tract "D"; thence with the lines of Tracts "D" and "D–1" to a point on the easterly right-of-way line of State Highway No. 11 (corner D1W); thence up and with said right-of-way line to the Jones-Jasper County Line; thence southwesterly with said county line to the intersection of a line projected between the easterly lines of Piedmont Wildlife Refuge Tracts 227–A and 282; thence north and west with said line of Refuge tracts No. 227–A, 1261, 213, 1276, 158, 1261–A, and 238; thence with old road from the northwest corner of Tract 238 to the north corner of tract 382–C; thence southwesterly and southeasterly with Refuge tract No. 382–C to the intersection with said old road on southwesterly line of said tract; thence west with said old road to northeasterly corner of Refuge tract No. 215–A; thence west, northwest and southwest to the most westerly corner of said tract; thence southwesterly on a projected line of northwest line of Refuge tract 215–A to the Ocmulgee River; thence northerly up said River to point of beginning; and U.S. tracts 305–M and 154 located in Jasper County, and tract 354–H and the Round Oak Fire Tower tract located in Jones County.

Beginning at a point on the east and left bank of the Apalachee River near the confluence of the Oconee River; thence up and with the left bank of the Apalachee River to the north edge of Sword's Road; thence in a southwesterly direction, across the Apalachee River and with five (5) lines of U.S. Tract No. 179 to a point on the east and left bank of the Apalachee River; thence up and with the left bank of said river to the Greene-Oconee County line; thence northerly, easterly and southerly with four (4) lines of Tract U.S. 105, within Oconee County, to the Greene-Oconee County line; thence northeasterly with said county line to U.S. Tract 178; thence northerly, easterly and southerly with the lines of said tract to the Greene-Oconee County line; thence with said county line to the east bank of the Oconee River; thence up and with the east and left bank of the Oconee River to U.S. Tract 174; thence northerly, easterly and southerly with the lines of Tracts 174, 171, 176 and 50–A to a point on the Oglethorpe-Greene County line; thence in a southeasterly direction with said county line to a point on the west side of U.S. Tract No. 160; thence northerly, easterly and southerly with the lines of said tract to the Oglethorpe-Greene County line; thence continuing with said county line to the McWhorter Chapel School Road; thence in a southerly direction with said road to U.S. Tract No. 93; thence easterly and southerly with the lines of Tracts No. 93 and No.

U. S. DEPARTMENT OF AGRICULTURE
FOREST SERVICE

OCONEE NATIONAL FOREST
GEORGIA
1959



NATIONAL FOREST BOUNDARY
NATIONAL FOREST

DIAGRAMMATIC MAP FORMING AN OFFICIAL SUPPLEMENT TO PROCLAMATION DATED NOVEMBER 27, 1959

119 to a point on the Woodville-Shiloh Church Road; thence westerly to the Penfield-Carey Station Road; thence southerly and southwesterly with said Road to a point on the east boundary of U.S. Tract No. 120; thence southerly and westerly with the lines of Tract 120 to the place of beginning; and U.S. Tract 121 located in Greene County.

The boundaries of the Oconee National Forest described above are graphically shown on the diagram attached hereto and made a part hereof.

TOMBIGBEE NATIONAL FOREST—MISSISSIPPI

CHICKASAW MERIDIAN

T. 12 S., R. 3 E.,
Sec. 1, secs. 11 to 15, inclusive, secs. 22 to 27, inclusive, and secs. 34 to 36, inclusive.
T. 13 S., R. 3 E.,
Secs. 1 to 3, inclusive, secs. 11 to 14, inclusive, secs. 22 to 26, inclusive, and sec. 36.
T. 11 S., R. 4 E.,
Secs. 32, 33 and 34.
T. 12 S., R. 4 E.,
Secs. 2 to 11, inclusive, secs. 14 to 19, inclusive, and sec. 30.
T. 13 S., R. 4 E.,
Secs. 7, 8, secs. 17 to 22, inclusive, secs. 26 to 35, inclusive.

CHOCTAW MERIDIAN

T. 16 N., R. 11 E.,
Secs. 1 to 4, inclusive, secs. 9 to 15, inclusive, secs. 22 to 27, inclusive, and secs. 34 to 36, inclusive.
T. 17 N., R. 11 E.,
Secs. 22 to 27, inclusive, and secs. 33 to 36, inclusive.
T. 15 N., R. 12 E.,
Secs. 1 to 18, inclusive.
T. 16 N., R. 12 E.,
Secs. 1 to 36, inclusive.
T. 17 N., R. 12 E.,
Sec. 31, SW¼SW¼.
T. 15 N., R. 13 E.,
Secs. 3 to 6, inclusive.
T. 16 N., R. 13 E.,
Secs. 2 to 22, inclusive;
Sec. 23, S½SW¼ and that part lying north and west of the Louisville-Starkville road;
Sec. 24, that part lying north and west of the Louisville-Starkville road;
Sec. 26, W½;
Secs. 27 to 34, inclusive.
T. 17 N., R. 13 E.,
Sec. 33, SW¼ and W½SE¼.
T. 16 N., R. 14 E.,
Sec. 7;
Sec. 8, W½ E½, W½;
Secs. 17, 18 and 19, those parts lying north and west of the Louisville-Starkville road.

IN WITNESS WHEREOF, I have hereunto set my hand and caused the Seal of the United States of America to be affixed.

DONE at the City of Washington this twenty-seventh day of November in the year of our Lord nineteen hundred and fifty-nine, and of the [SEAL] Independence of the United States of America the one hundred and eighty-fourth.

DWIGHT D. EISENHOWER

By the President:

DOUGLAS DILLON,
Acting Secretary of State.

[F.R. Doc. 59-10232; Filed, Dec. 1, 1959; 2:15 p.m.]

RULES AND REGULATIONS

Title 7—AGRICULTURE

Chapter IX—Agricultural Marketing Service (Marketing Agreements and Orders) Department of Agriculture

[Tangerine Reg. 213]

PART 933—ORANGES, GRAPEFRUIT, TANGERINES, AND TANGELOS GROWN IN FLORIDA

Limitation of Shipments

§ 933.993 Tangerine Regulation 213

(a) *Findings.* (1) Pursuant to the marketing agreement, as amended, and Order No. 33, as amended (7 CFR Part 933), regulating the handling of oranges, grapefruit, tangerines, and tangelos grown in Florida, effective under the applicable provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674), and upon the basis of the recommendations of the committees established under the aforesaid amended marketing agreement and order, and upon other available information, it is hereby found that the limitation of shipments of tangerines, as hereinafter provided, will tend to effectuate the declared policy of the act.

(2) It is hereby further found that it is impracticable and contrary to the public interest to give preliminary notice, engage in public rule-making procedure, and postpone the effective date of this section until 30 days after publication thereof in the FEDERAL REGISTER (60 Stat. 237; 5 U.S.C. 1001 et seq.) because the time intervening between the date when information upon which this section is based became available and the time when this section must become effective in order to effectuate the declared policy of the act is insufficient; a reasonable time is permitted, under the circumstances, for preparation for such effective time; and good cause exists for making the provisions hereof effective as hereinafter set forth. Shipments of tangerines, grown in the production area, are presently subject to regulation by grades and sizes, pursuant to the amended marketing agreement and order; the recommendation and supporting information for regulation during the period specified herein were promptly submitted to the Department after an open meeting of the Growers Administrative Committee on December 1, 1959; such meeting was held to consider recommendations for regulation, after giving due notice of such meeting, and interested persons were afforded an opportunity to submit their views at this meeting; the provisions of this section, including the effective time hereof, are, except with respect to the prohibition of shipments recommended for the period December 23–29, 1959, both dates inclusive, identical with the aforesaid recommendation of the committee, and information concerning the recommended provisions and effective time has been disseminated among handlers of such tangerines; it is necessary, in order to effectuate the declared policy of the act, to make this section effective during the period hereinafter set forth so as to provide for the continued regulation of the handling of tangerines, and compliance with this section will not require any special preparation on the part of the persons subject thereto which cannot be completed by the effective time hereof.

(b) *Order.* (1) Terms used in the amended marketing agreement and order shall, when used herein, have the same meaning as is given to the respective term in said amended marketing agreement and order; and terms relating to grade, diameter, and standard pack, as used herein, shall have the same meaning as is given to the respective term in the United States Standards for Florida Tangerines (§§ 51.1810 to 51.1836 of this title).

(2) Tangerine Regulation 212 (§ 933.991; 24 F.R. 9541), is hereby terminated effective at 12:01 a.m., e.s.t., December 4, 1959.

(3) During the period beginning at 12:01 a.m., e.s.t., December 4, 1959, and ending at 12:01 a.m., e.s.t., January 11, 1960, no handler shall ship between the production area and any point outside thereof in the continental United States, Canada, or Mexico:

(i) Any tangerines, grown in the production area, that do not grade at least U.S. No. 1; or

(ii) Any tangerines, grown in the production area, that are of a size smaller than the size that will pack 210 tangerines, packed in accordance with the requirements of a standard pack, in a half-standard box (inside dimensions 9½ x 9½ x 19⅜ inches; capacity 1,726 cubic inches).

(Secs. 1–19, 48 Stat. 31, as amended; 7 U.S.C. 601–674)

Dated: December 1, 1959.

S. R. SMITH,
Director, Fruit and Vegetable Division, Agricultural Marketing Service.

[F.R. Doc. 59-10291; Filed, Dec. 2, 1959; 11:33 a.m.]

PART 997—FILBERTS GROWN IN OREGON AND WASHINGTON

Budget of Expenses, Including Operating Reserve of Filbert Control Board and Rate of Assessment for 1959–60 Fiscal Year

Notice was published in the FEDERAL REGISTER on October 30, 1959 (24 F.R. 8846) that there was under consideration a proposal regarding expenses, including the establishment of an operating monetary reserve, of the Filbert Control Board and rate of assessment for the 1959–60 fiscal year which began August 1, 1959. The proposal was based on a recommendation of the Filbert Control Board and other available information, in accordance with the applicable provisions of Marketing Agreement No. 115, as amended, and Order No. 97, as amended (7 CFR Part 997; 24 F.R. 6185) regulating the handling of filberts grown in Oregon and Washington. Said amended marketing agreement and order are effective under the provisions of the Agricultural Marketing Agreement Act of 1937, as amended (Secs. 1–19, 48 Stat. 31, as amended; 7 U.S.C. 601–674).

The notice afforded interested persons opportunity to file data, views, or arguments pertaining thereto with the Department for consideration prior to the approval of a budget of expenses (including establishment of an operating reserve) and fixing of the assessment rate. The prescribed time has expired and no such communication has been received. The budget amount hereby approved is the total amount of expenses, including operating reserve requirements, the Board is authorized to incur during the 1959–60 fiscal year. The assessment rate hereby fixed is necessary to enable the Board to collect assessment monies with which to defray such expenses.

After consideration of all relevant matters, including the proposals in said notice, it is hereby found that expenses, including operating reserve requirements, of the Filbert Control Board in the total amount of $26,080 are reasonable and likely to be incurred by the Board during the 1959–60 fiscal year, and a rate of assessment of 0.20-cent per pound of assessable filberts is necessary to provide funds to meet such expenses.

Therefore, it is ordered, That the budget of expenses of the Filbert Control Board and rate of assessment for the fiscal year beginning August 1, 1959, be as follows:

§ 997.304 Budget of expenses of the Filbert Control Board, and rate of assessment for 1959–60 fiscal year.

(a) *Budget of expenses.* The budget of expenses (including maintenance of an operating reserve fund) of the Filbert Control Board for the fiscal year beginning August 1, 1959, shall be in the total amount of $26,080, such amount being reasonable and likely to be incurred for maintenance and functioning of the Board, and for such purposes as the Secretary may, pursuant to the provisions of the amended marketing agreement and this part, determine to be appropriate.

(b) *Rate of assessment.* The rate of assessment for the said fiscal year, payable in accordance with said amended marketing agreement and this part by each handler to the Filbert Control Board on demand, shall be 0.20-cent per pound of assessable filberts.

It is hereby further found that good cause exists for not postponing the effective date of this order later than the date of its publication in the FEDERAL REGISTER for the reasons that: (1) the action applies, in accordance with the amended marketing agreement and order, to all filberts handled by handlers during the fiscal year which began on August 1, 1959, and such handlings have already begun; (2) the authorization of expenses and fixing of the rate of assessment should be effected as soon as possible to enable the Filbert Control Board to perform its functions and collect assessments to defray authorized expenses as incurred, in accordance with the provisions of said amended marketing agreement and order; (3) prior notice of the proposed action was given handlers and other interested parties; and (4) compliance herewith will not require any special or advance preparation on the part of handlers.

(Secs. 1–19, 48 Stat. 31, as amended; 7 U.S.C. 601–674)

Dated: November 30, 1959, to become effective upon publication in the FEDERAL REGISTER.

S. R. SMITH,
Director,
Fruit and Vegetable Division.

[F.R. Doc. 59–10177; Filed, Dec. 2, 1959; 8:50 a.m.]

Title 6—AGRICULTURAL CREDIT

Chapter III—Farmers Home Administration, Department of Agriculture

SUBCHAPTER B—FARM OWNERSHIP LOANS

[FHA Instruction 428.1]

PART 331—POLICIES AND AUTHORITIES

Average Values of Farms; Vermont

On November 18, 1959, for the purposes of Title I of the Bankhead-Jones Farm Tenant Act, as amended, average values of efficient family-type farm-management units for 10 of the 14 counties identified below were determined to be as herein set forth. The average values heretofore established for said 10 counties, which appear in the tabulations of average values under 6 CFR 331.17, are hereby superseded by the average values set forth below for said counties.

VERMONT	*Average value*
County:	
Addison	$25,000
Bennington	25,000
Caledonia	25,000
Chittenden	25,000
Essex	25,000
Franklin	25,000
Grand Isle	25,000
Lamoille	25,000
Orange	25,000
Orleans	25,000
Rutland	25,000
Washington	25,000
Windham	25,000
Windsor	25,000

(Sec. 41, 50 Stat. 528, as amended; 7 U.S.C. 1015; Order of Acting Sec. of Agric., 19 F.R. 74, 22 F.R. 8188)

Dated: November 25, 1959.

K. H. HANSEN,
Administrator,
Farmers Home Administration.

[F.R. Doc. 59–10179; Filed, Dec. 2, 1959; 8:50 a.m.]

[FHA Instruction 443.4]

PART 334—LOANS PRIMARILY FOR REFINANCING

Miscellaneous Amendments

1. The citations of authority for §§ 334.1 to 334.4 are revised to read as follows:

AUTHORITY: §§ 334.1 to 334.4 issued under secs. 1, 21, 41, 50 Stat. 522, as amended, 524, as amended, 528, as amended, sec. 17, 70 Stat. 802, as amended; 7 U.S.C. 1001, 1007, 1015, 1006d; Order of Acting Sec. of Agric., 19 F.R. 74, 22 F.R. 8188.

2. Paragraph (a) of § 334.2 in Title 6, Code of Federal Regulations (22 F.R. 3717) is revised to permit taking into account all assets of the applicant in determining his eligibility for a loan for refinancing, and to read as follows:

§ 334.2 Eligibility.

* * * * *

(a) The sum of (1) the value of the farm, which for this purpose will be the fair and reasonable value of the applicant's farm as determined by the County Committee, (2) the value of any other real estate owned by the applicant, and (3) the current market value of the applicant's livestock, farm equipment, and other assets must be equal to or exceed the applicant's total indebtedness. When the applicant's total indebtedness exceeds the total value of subparagraphs (1), (2), and (3) of this paragraph, the loan will not be approved unless it is determined that the applicant's debt(s) will be reduced so as not to exceed such value, and will not be closed unless the debts are so reduced at the time of loan closing.

Dated: November 25, 1959.

K. H. HANSEN,
Administrator,
Farmers Home Administration.

[F.R. Doc. 59–10180; Filed, Dec. 2, 1959; 8:50 a.m.]

Title 12—BANKS AND BANKING

Chapter II—Federal Reserve System

SUBCHAPTER A—BOARD OF GOVERNORS OF THE FEDERAL RESERVE SYSTEM

[Reg. D]

PART 204—RESERVES OF MEMBER BANKS

Miscellaneous Amendments

1. Effective December 1, 1959, except as otherwise indicated, Part 204 is amended in the following respects:

a. Section 204.1 is amended by changing paragraph (f) and by adding the following new paragraph (i) thereof to read as follows:

§ 204.1 Definitions.

* * * * *

(f) *Gross demand deposits.* The term "gross demand deposits" means the sum of all demand deposits, including demand deposits made by other banks, the United States, States, counties, school districts and other governmental subdivisions and municipalities, and all outstanding certified and officers' checks (including checks issued by the bank in payment of dividends), and letters of credit and travelers' checks sold for cash.

* * * * *

(i) *Currency and coin.* The term "currency and coin" means United States currency and coin owned and held by a member bank, including currency and coin in transit to or from a Federal Reserve Bank. "Countable" currency and coin means that part of a member bank's currency and coin which is permitted to be counted as partial compliance with its reserve requirements.

b. Section 204.2(a) is amended to read as follows:

§ 204.2 Computation of reserves.

(a) *Amounts of reserves to be maintained.* (1) Every member bank shall maintain on deposit with the Federal Reserve Bank of its district an actual net balance equal to 3 percent of its time deposits, plus 7 percent of its net demand deposits if it is not located in a reserve or central reserve city or 10 percent of its net demand deposits if it is located in a reserve or central reserve city, or such different percentages of its time deposits and net demand deposits as the Board of Governors of the Federal Reserve System, pursuant to and within the limitations contained in section 19 of the Federal Reserve Act,[7] may prescribe from time to time in the Supplement to this part: *Provided,* That a member bank's currency and coin shall be counted in partial compliance with such requirements to such extent as the Board of Governors of the Federal Reserve System, pursuant to section 19 of the Federal Reserve Act, may permit from time to time in the Supplement to this Part.

(2) Notwithstanding the provisions of subparagraph (1) of this paragraph, a member bank located in a reserve city may hold and maintain the reserve balances which are in effect for member banks not located in reserve or central reserve cities, and a member bank located in a central reserve city may hold and maintain the reserve balances which are in effect for member banks located in reserve cities or for member banks not located in reserve or central reserve cities, if permission for the holding and maintaining of such lower reserve balances is granted by the Board of Governors of the Federal Reserve System on such basis as the Board may deem reasonable and appropriate in view of the character of business transacted by the member bank.

(3) For the purposes of this part, a member bank shall be considered to be in a central reserve city if the head office or any branch of such bank is located in a central reserve city, and a member bank shall be considered to be in a reserve city if the head office or any branch thereof is located in a reserve city and neither the head office nor any branch thereof is located in a central reserve city.

c. Section 204.3(a) is amended to read as follows:

§ 204.3 Deficiencies in reserves.

(a) *Computation of deficiencies.* (1) Deficiencies in reserve balances of member banks in central reserve cities and in reserve cities shall be computed on the basis of average daily net deposit balances and average daily countable currency and coin covering weekly periods.[9] Deficiencies in reserve balances of other member banks shall be computed on the basis of average daily net deposit balances and average daily countable currency and coin covering semimonthly periods.

(2) In computing such deficiencies the required reserve balance of each member bank at the close of business each day shall be based upon its net deposit balances and countable currency and coin at the opening of business on the same day; and the weekly and semimonthly periods referred to in subparagraph (1) of this paragraph shall end at the close of business on days to be fixed by the Federal Reserve banks with the approval of the Board of Governors of the Federal Reserve System. When, however, the reserve computation period ends with a non-business day, or two or more consecutive non-business days, of the member bank or its Federal Reserve Bank, such non-business day or days may, at the option of the member bank, be included in the next reserve computation period.

d. Effective at the opening of business on December 31, 1959, subparagraphs (1) and (2) of paragraph (a) or § 204.3 are amended by changing the word "semimonthly" where it occurs therein to read "bi-weekly".

e. Footnotes 5a and 7 and textual references thereto are renumbered 6 and 8, respectively.

f. Effective as to member banks not in reserve and central reserve cities at opening of business on December 1, 1959, and as to member banks in reserve and central-reserve cities at opening of business on December 3, 1959, § 204.5 [Supplement to Regulation D] is amended to read as follows:

§ 204.5 Supplement.

(a) *Reserve percentages.* Pursuant to the provisions of section 19 of the Federal Reserve Act and § 204.2(a), but subject to paragraph (b) of this section, the Board of Governors of the Federal Reserve System hereby prescribes the following reserve balances which each member bank of the Federal Reserve System is required to maintain on deposit with the Federal Reserve Bank of its district:

(1) If not in a reserve or central reserve city—

(i) 5 percent of its time deposits, plus

(ii) 11 percent of its net demand deposits.

(2) If in a reserve city (except as to any bank located in such a city which is permitted by the Board of Governors of the Federal Reserve System, pursuant to § 204.2(a)(2), to maintain the reserves specified in subparagraph (1) of this paragraph)—

(i) 5 percent of its time deposits, plus

(ii) 16½ percent of its net demand deposits.

(3) If in a central reserve city (except as to any bank located in such a city which is permitted by the Board of Governors of the Federal Reserve System, pursuant to § 204.2(a)(2), to maintain the reserves specified in subparagraph (1) or (2) of this paragraph)—

(i) 5 percent of its time deposits, plus

(ii) 18 percent of its net demand deposits.

(b) *Counting of currency and coin.* In partial compliance with the reserve requirements of paragraph (a) of this section, the amount of a member bank's currency and coin shall be counted to the extent that it exceeds 2 percent of the bank's net demand deposits in the case of a bank subject to the requirements for banks located in central reserve and reserve cities, and to the extent that it exceeds 4 percent of the bank's net demand deposits in the case of a bank subject to the reserve requirements for banks not located in central reserve and reserve cities.

2a. The purposes of these amendments are to permit member banks to count a portion of their currency and coin in partial compliance with their reserve requirements under the law and the regulation, such permission being granted

[7] Any such different percentages prescribed by the Board may not be less than 3 percent of time deposits, 7 percent of net demand deposits of banks not located in reserve or central reserve cities, or 10 percent of net demand deposits of banks located in reserve or central reserve cities, nor more than 6 percent of time deposits, 14 percent of net demand deposits of banks not located in reserve or central reserve cities, or 22 percent of net demand deposits of banks located in reserve or central reserve cities.

[9] However, deficiencies in reserve balances of member banks in central reserve and reserve cities which have been authorized by the Board of Governors, under the provisions of § 204.2(a)(2), to hold and maintain the reserve balances in effect for member banks not in central reserve and reserve cities will be computed on the basis provided for such latter member banks in this § 204.3(a)(1).

pursuant to amendments made to section 19 of the Federal Reserve Act by the Act of July 28, 1959; to conform the language of the Regulation to changes in the law made by such Act; to exclude from the definition of "gross demand deposits" drafts drawn by a member bank upon its reserve account at its Federal Reserve Bank or other authorizations to charge such account; to provide for biweekly, instead of semimonthly, computations of reserves by member banks not located in reserve and central reserve cities; and to permit a member bank, at its option, to consider a nonbusiness day or nonbusiness days at the end of a reserve computation period as included within the next succeeding computation period.

b. The notice and public procedure described in sections 4(a) and 4(b) of the Administrative Procedure Act and the prior publication described in section 4(c) of such act are not followed in connection with these amendments for the reasons and good cause found as stated in § 262.2(e) of the Board's rules of procedure (Part 262) and especially because in connection with these amendments such procedures are unnecessary because they would not aid the persons affected and would serve no other useful purpose.

(Sec. 11, 38 Stat. 261, as amended; 12 U.S.C. 248. Interprets or applies sec. 19, 38 Stat. 270; as amended, sec. 19, 48 Stat. 54, as amended; 12 U.S.C. 461, 462, 462b, 464, 465; Public law 86-114, July 23, 1959)

[SEAL] MERRITT SHERMAN, *Secretary.*

[F.R. Doc. 59-10194; Filed, Dec. 2, 1959; 8:51 a.m.]

[No. 12,948]

Chapter V—Federal Home Loan Bank Board

SUBCHAPTER C—FEDERAL SAVINGS AND LOAN SYSTEM

PART 545—OPERATIONS

Sales Commissions and Related Matters

NOVEMBER 27, 1959.

Resolved that notice and public procedure, including public hearing, having been duly afforded (23 F.R. 8161), and all relevant matter presented or available having been considered by it, the Federal Home Loan Bank Board, upon the basis of determination by it that an undue concentration of savings obtained by Federal savings and loan associations through the use of brokers or similar intermediaries is or may be injurious or dangerous to such institutions' operations and their safety and soundness and that the amendment hereby made will serve to limit the amount of savings obtained by them through such means and thus help to safeguard them against such injury or danger, and for the purpose of safeguarding them against such injury or danger by providing that no such association shall pay any sales commission contrary to the terms of § 563.25 of the rules and regulations for Insurance of Accounts (12 CFR 563.25) or do any act prohibited by the terms of said § 563.25 (which is, by amendment this day made and effective as therein set forth, amended so as to restrict the sales plans and practices of insured institutions as set forth in such amendment), hereby amends § 545.1 of the rules and regulations for the Federal Savings and Loan System (12 CFR 545.1) as follows, effective January 4, 1960.

The third sentence of § 545.1 of the rules and regulations for the Federal Savings and Loan System is hereby amended to read as follows: "No Federal association shall pay any sales commission contrary to the terms of § 563.25 of the rules and regulations for Insurance of Accounts (§ 563.25 of Subchapter D of this chapter) or do any act prohibited by the terms of said section." As amended, § 545.1 reads as follows:

§ 545.1 Savings accounts.

The capital of a Federal association may be raised through payments on its savings accounts in the form of cash, or of property in which such Federal association is authorized to invest, and in the absence of actual fraud in the transaction, the value of such property, as determined by the board of directors of such Federal association, shall be conclusive. The savings accounts of a Federal association that has a Charter E or a Charter K and which amends such charter to read in the form of Charter N or Charter K (rev.) shall continue to have the same rights and privileges and to be subject to the same duties and liabilities as were provided in the charter in effect at the time such savings accounts were created, until exchanged for a savings account issued under the provisions of Charter N or Charter K (rev.). No Federal association shall pay any sales commission contrary to the terms of § 563.25 of the rules and regulations for Insurance of Accounts (§ 563.25 of Subchapter D of this chapter) or do any act prohibited by the terms of said section. Except to the extent expressly authorized by Charter E, no Federal association shall directly or indirectly charge any membership admission, repurchase, withdrawal, or any other fee or sum of money, for the privilege of becoming, remaining, or ceasing to be a holder of a savings account of such Federal association.

(Sec. 5, 48 Stat. 132, as amended; 12 U.S.C. 1464. Reorg. Plan No. 3 of 1947, 12 F.R. 4981, 3 CFR, 1947 Supp.)

By the Federal Home Loan Bank Board.

[SEAL] HARRY W. CAULSEN, *Secretary.*

[F.R. Doc. 59-10192; Filed, Dec. 2, 1959; 8:51 a.m.]

SUBCHAPTER D—FEDERAL SAVINGS AND LOAN INSURANCE CORPORATION

[No. FSLIC-757]

PART 563—OPERATIONS

Sales Commissions and Related Matters

NOVEMBER 27, 1959.

Resolved that notice and public procedure, including public hearing, having been duly afforded (23 F.R. 8161), and all relevant matter presented or available having been considered by it, the Federal Home Loan Bank Board, upon the basis of determination by it that an undue concentration of savings obtained by insured institutions through the use of brokers or similar intermediaries is or may be injurious or dangerous to such institutions' operations and their safety and soundness and that the amendments hereinafter set forth will serve to limit the amount of savings obtained by them through such means and thus help to safeguard them against such injury or danger, and for the purpose of regulating the sales plans and practices of insured institutions so as to safeguard them against such injury or danger, hereby amends §§ 563.24, 563.25, and 563.26 of the rules and regulations for Insurance of Accounts (12 CFR 563.24, 563.25, and 563.26) as follows, effective January 4, 1960.

1. Section 563.24 of the rules and regulations for Insurance of Accounts is hereby amended by striking the language "for approval by the Corporation". As amended § 563.24 reads as follows:

§ 563.24 Sales plans and practices; use of salesmen, sales agencies, surplus certificates, or other sales plans.

Every applicant for insurance which uses salesmen, sales agencies, surplus certificates, or other sales plans shall submit, with its application, full details thereof. An insured institution shall not give for the opening of, or increasing the amount of, any account any give-away that has a monetary value in excess of $2.50. The monetary value of any give-away so given shall be the cost thereof to the insured institution and the insured institution shall keep in its records for a period of at least two years suitable evidence of such cost. If the give-away is purchased or obtained by the insured institution together with, in connection with, or at the same time as another item or other items from the same supplier, not identical therewith, such value shall be deemed to be the then current regular selling price or charge of the supplier on separate sales or dispositions thereof in the quantity included, and the insured institution shall in such case obtain, and keep in its records for a period of at least two years, a signed statement by such supplier of such regular selling price or charge. As used in the foregoing provisions of this section, the term "give" means to give, to sell or dispose of for less than full monetary value as hereinbefore defined, or with any agreement or undertaking, contingent or otherwise, for repurchase or redemption, whether total or partial, or to offer, promise, or agree to do any of the foregoing; the term "give-away" means any money, property, service, or other thing of value, whether tangible or intangible; and the term "account" means an account of an insurable type.

2. Sections 563.25 and 563.26 of the rules and regulations for Insurance of Accounts are hereby amended to read as follows:

§ 563.25 Sales commissions.

(a) *General provisions.* Except as provided in paragraphs (b), (c), (d), and (e) of this section, no insured institution shall, directly or indirectly—

(1) Pay any sales commission except to an employee of such institution;

(2) Pay to any employee of such institution any sales commission the payment or the amount of which is based in whole or in part upon the opening or increasing of any account or accounts in such institution, except a prize in cash or otherwise for participating in a new account drive or contest conducted by such institution; or

(3) Allow to any person any discount or rebate on or with respect to any account in such institution if the allowance or the amount of such discount or rebate is dependent in whole or in part upon another person's having solicited or obtained the opening or increasing of any account or accounts in such institution, or enter into any contract or agreement under which any person other than such institution is allowed to collect or receive from any other person (except such institution) any compensation for or in connection with the opening or increasing of any account or accounts in such institution.

(b) *Exceptions.* The provisions of this section shall not prohibit any action which (1) is permitted by paragraph (c), paragraph (d), or paragraph (e) of this section or (2) constitutes the giving of a give-away within the meaning of § 563.24 but is not prohibited by § 563.24 for the reason that such give-away does not exceed the monetary value (as defined in said § 563.24) which is permitted by said section.

(c) *Use of brokers*—(1) *General provisions.* The provisions of this section shall not prohibit the payment by any insured institution, within the limitations of this paragraph (c), of sales commissions to brokers, but no insured institution shall pay any sales commission pursuant to the permission granted by this paragraph (c) at any time when the outstanding balances of all accounts in such institution which were opened or increased as a result of services of any broker or brokers aggregate a total in excess of five percent of the total of all accounts in such institution at the close of the next preceding December 31.

(2) *Limitations.* Sales commissions permitted by this paragraph (c) shall be only such as are payable to a broker with respect to an account or accounts opened or increased as a result of services of such broker. No such commissions shall exceed, in amount or value, two percent of the amounts paid in for the opening of the accounts involved, in the case of accounts opened, or two percent of the amounts paid in for the increases involved, in the case of accounts increased. As used in this paragraph (c), the term "broker" means a person employed, engaged, or retained by an institution for services consisting in whole or in part of soliciting or obtaining the opening or increasing of accounts in such institution, except (i) an individual who is an officer, a director, or an employee of such institution, or (ii) an agent (as defined in paragraph (d) of this section) or a salesman (as defined in paragraph (e) of this section) utilized by such institution under circumstances permitting the payment of sales commissions to such agent or salesman under said paragraph (d) or said paragraph (e).

(3) *Maintenance of records; requirement of written agreements.* Each insured institution that accepts any account or any increase in any account on which it is obligated to pay a sales commission for the services of any broker or brokers or that pays any sales commission to any broker or brokers shall, in addition to maintaining such other records as will establish compliance with the provisions of this section, (i) before it accepts any such account or increase, and before it pays any such commission, identify each outstanding account that was opened or increased as a result of services of any broker or brokers, (ii) similarly identify each account that is opened or increased subsequent to the effective date of this section as a result of services of any broker or brokers, (iii) establish and maintain by a separate ledger control or otherwise a record which shows at all times the aggregate of the outstanding balances of all accounts that were opened or increased as a result of services of any broker or brokers, and (iv) make and retain an itemized record of each payment of sales commission to any broker, identifying each account and stating the amount thereof in respect to which such sales commission is paid. No insured institution shall pay any sales commission to any broker unless such broker is employed, engaged, or retained by such institution by agreement in writing, stating the service or services to be performed by the broker or brokers and the sales commissions to be paid, and the original or a signed duplicate of each agreement by which an insured institution employs, engages, or retains any broker shall be retained by such institution.

(d) *Saving clause; use of agents*—(1) *General provisions.* The provisions of this section shall not prohibit the payment of sales commissions, within the limitations of this paragraph (d), by any insured institution which on October 17, 1958, whether or not it was then an insured institution, was utilizing one or more agents having on said date one or more offices located within such institution's regular lending area and no agent who then had any office located outside such area or was being utilized as an agent by any other building and loan, savings and loan, or homestead association or cooperative bank.

(2) *Limitations.* Sales commissions permitted by this paragraph (d) shall be only such as are payable to an agent or agents having one or more offices located within such institution's regular lending area and having no office located outside such area. No such commissions, except to the extent that the same are separately ascertainable compensation for services other than soliciting or obtaining the opening or increasing of an account or accounts in such institution, shall exceed, in amount or value, two percent of the amounts of funds transmitted through such office or offices to the insured institution for the opening or increasing of accounts in such institution. As used in this paragraph (d), the following terms have the following meanings:

(i) The term "agent" means a person employed, engaged, or retained by an institution for services consisting in whole or in part of soliciting or obtaining the opening or increasing of accounts in such institution, and except as used in subparagraph (1) of this paragraph (d) means such a person other than an individual who is an officer or a director of such institution; and

(ii) The term "office" means a place of business which an agent of an institution maintains for soliciting or obtaining the opening or increasing of accounts in such institution.

(e) *Saving clause; use of salesmen*—(1) *General provisions.* The provisions of this section shall not prohibit the payment of sales commissions, within the limitations of this paragraph (e), by an insured institution which on October 17, 1958, whether or not it was then an insured institution, was utilizing one or more salesmen.

(2) *Limitations.* Sales commissions permitted by this paragraph (e) shall be only such as are payable to a salesman or salesmen having no office as defined in the last sentence of this subparagraph (2). No such commissions, so far as the amounts thereof are based upon the opening or increasing of an account or accounts in such institution, shall exceed, in amount or value, two percent of the par or maturity value of the account or accounts involved, in the case of accounts opened, or of the increase in par or maturity value thereof, in the case of accounts increased. As used in this paragraph (e), the following terms have the following meanings:

(i) The term "salesman" means an individual (other than an individual who is an officer or a director of such institution) who is employed, engaged, or retained by an institution for services consisting in whole or in part of soliciting or obtaining the opening or increasing of accounts in such institution and who receives compensation the amount of which is based in whole or in part upon the opening or increasing of accounts in such institution; and

(ii) The term "office" means, with reference to a salesman for an institution, (*a*) a place of business which such salesman maintains for soliciting or obtaining the opening or increasing of accounts in such institution, except a home of such salesman located within such institution's regular lending area or a place of business of such institution located within such area; (*b*) a home of such salesman located outside such area; or (*c*) a place of business of such institution, located outside such area, at which such salesman performs services for such institution, at or from which such salesman receives assignments or instructions from such institution, or at or to which such salesman renders reports to such institution.

§ 563.26 Sales commissions; definitions.

As used in § 563.25 and in this section—

(a) The following terms have the following meanings: (1) "Account" means any share, investment certificate, deposit, or savings account in an institution; (2) "compensation" means any salary, fee, commission, or other compensation, whether in the form of money, property, or otherwise; (3) "employee" except where used in paragraph (c) of § 563.25 means, and where so used includes, an individual (other than an individual who is a director of such institution) who is employed by an institution at the principal office or at another office of such institution and performs no services for such institution outside the regular lending area of such institution; (4) "officer" means the president, a vice-president, the secretary, or the treasurer of an institution; (5) "regular lending area" means the territory within fifty miles of an institution's principal office and the territory within which such institution was, within the meaning of the first sentence of § 563.9, operating on June 27, 1934; and (6) "sales commission" means any compensation which in whole or in part is compensation for soliciting or obtaining the opening or increasing of an account or accounts in an insured institution or any compensation by an insured institution to a person engaged in whole or in part in soliciting or obtaining the opening or increasing of accounts in such institution; and

(b) The term "pay" except where first used in subparagraph (3) of paragraph (c) of § 563.25, and the term "payment except where used in said subparagraph (3) and where last used in this paragraph (b), include contracting or agreeing to pay, but the terms "pay" and "payment", except where said terms are used in said subparagraph (3), do not include (1) the making to an assignee, designee, or legal representative of any payment otherwise proper under § 563.25 or (2) any payment pursuant to a contract or agreement under which no services remain to be performed; and the term "person" includes groups of persons and artificial persons and includes investors.

(Secs. 402, 403, 48 Stat. 1256, 1257, as amended; 12 U.S.C. 1725, 1726. Reorg. Plan No. 3 of 1947, 12 F.R. 4981, 3 CFR, 1947 Supp.)

By the Federal Home Loan Bank Board.

[SEAL] HARRY W. CAULSEN, *Secretary.*

[F.R. Doc. 59-10193; Filed, Dec. 2, 1959; 8:51 a.m.]

Title 16—COMMERCIAL PRACTICES

Chapter I—Federal Trade Commission

[Docket 7509 c.o.]

PART 13—DIGEST OF CEASE AND DESIST ORDERS

Simon Lieberman and Artistic Fur Shop

Subpart—*Invoicing products falsely:* § 13.1108 *Invoicing products falsely:* Fur Products Labeling Act. Subpart—*Misbranding or mislabeling:* § 13.1212 *Formal regulatory and statutory requirements:* Fur Products Labeling Act; § 13.1255 *Manufacture or preparation:* Fur Products Labeling Act. Subpart—*Neglecting, unfairly or deceptively, to make material disclosure:* § 13.1852 *Formal regulatory and statutory requirements:* Fur Products Labeling Act.

(Sec. 6, 38 Stat. 721; 15 U.S.C. 46. Interpret or apply sec. 5, 38 Stat. 719, as amended; sec. 8, 65 Stat. 179; 15 U.S.C. 45, 69f) [Cease and desist order, Simon Lieberman trading as Artistic Fur Shop, Buffalo, N.Y., Docket 7509, September 23, 1959]

In the Matter of Simon Lieberman, an Individual Trading as Artistic Fur Shop

This proceeding was heard by a hearing examiner on the complaint of the Commission charging a Buffalo, N.Y., furrier with violating the Fur Products Labeling Act by labeling as natural, fur products composed of dyed fur, by failing to set forth the term "Dyed Mouton-processed Lamb" as required, and by failing in other respects to comply with labeling and invoicing requirements.

After acceptance of an agreement containing consent order, the hearing examiner made his initial decision and order to cease and desist which became on September 23 the decision of the Commission.

The order to cease and desist is as follows:

It is ordered, That respondent Simon Lieberman, individually and trading as Artistic Fur Shop, or trading under any other name or names, and his representatives, agents and employees, directly or through any corporate or other device in connection with the introduction, manufacture for introduction, or the sale, advertising or offering for sale in commerce, or the transportation or distribution in commerce of fur products or in connection with the sale, manufacture for sale, advertising, offering for sale, transportation or distribution of fur products which have been made in whole or in part of fur which has been shipped and received in commerce, as "commerce," "fur" and "fur product" are defined in the Fur Products Labeling Act, do forthwith cease and desist from:

A. Misbranding fur products by:

(1) Failing to affix labels to fur products showing in words and figures plainly legible all information required to be disclosed by each of the subsections of section 4(2) of the Fur Products Labeling Act;

(2) Failing to affix labels to fur products showing the item number or mark assigned to a fur product;

(3) Setting forth on labels affixed to fur products:

(a) Information required under section 4(2) of the Fur Products Labeling Act and the rules and regulations promulgated thereunder, mingled with non-required information;

(b) Information required under section 4(2) of the Fur Products Labeling Act and the rules and regulations promulgated thereunder in handwriting;

(c) Information required under section 4(2) of the Fur Products Labeling Act and rules and regulations promulgated thereunder in abbreviated form;

(4) Failing to set forth all the information required under section 4(2) of the Fur Products Labeling Act and the rules and regulations promulgated thereunder on one side of labels;

(5) Failing to set forth on labels the information required under section 4(2) of the Fur Products Labeling Act and the rules and regulations promulgated thereunder in the required sequence;

(6) Affixing to fur products labels that do not comply with the minimum size requirements of 1¾" x 2¾";

(7) Failing to set forth separately on labels attached to fur products composed of two or more sections containing different animal furs, the information required under section 4(2) of the Fur Products Labeling Act and the rules and regulations promulgated thereunder with respect to the fur comprising each section;

(8) Failing to set forth the term "Dyed Mouton Processed Lamb" in the manner required.

B. Falsely or deceptively invoicing fur products by:

(1) Failing to furnish to purchasers of fur products an invoice showing all of the information required to be disclosed by each of the subsections of section 5(b)(1) of the Fur Products Labeling Act;

(2) Failing to furnish invoices to purchasers of fur products showing the item number or mark assigned to a fur product;

(3) Setting forth the information required under section 5(b)(1) of the Fur Products Labeling Act and the rules and regulations promulgated thereunder in abbreviated form.

By "Decision of the Commission", etc., report of compliance was required as follows:

It is ordered, That respondent Simon Lieberman, an individual trading as Artistic Fur Shop, shall, within sixty (60) days after service upon him of this order, file with the Commission a report in writing, setting forth in detail the manner and form in which he has complied with the order to cease and desist.

Issued: September 23, 1959.

By the Commission.

[SEAL] ROBERT M. PARRISH, *Secretary.*

[F.R. Doc. 59-10150; Filed, Dec. 2, 1959; 8:46 a.m.]

[Docket 7522 c.o.]

PART 13—DIGEST OF CEASE AND DESIST ORDERS

Steven Hasso et al.

Subpart—*Advertising falsely or misleadingly:* § 13.155 *Prices:* Exaggerated as Regular and Customary; Fictitious Marking; Percentage Savings. Subpart—*Misbranding or mislabeling:*

§ 13.1280 *Price.* Subpart—*Misrepresenting oneself and goods*—Prices: § 13.1805 *Exaggerated as regular and customary;* § 13.1810 *Fictitious marking.* Subpart—*Neglecting, unfairly or deceptively, to make material disclosure:* § 13.1852 *Formal regulatory and statutory requirements:* Fur Products Labeling Act.

(Sec. 6, 38 Stat. 721; 15 U.S.C. 46. Interpret or apply sec. 5, 38 Stat. 719, as amended; Sec. 8, 65 Stat. 179; 15 U.S.C. 45, 69f) [Cease and desist order, Steven Hasso et al. trading as Hasso's Furs, Troy, N.Y., Docket 7522, September 17, 1959]

In the Matter of Steven Hasso and Richard Hasso, Individually and as Copartners Trading as Hasso's Furs

This proceeding was heard by a hearing examiner on the complaint of the Commission charging a furrier in Troy, N.Y., with violating the Fur Products Labeling Act by attaching to fur products, labels containing fictitious prices, represented thereby as the regular retail selling prices; by advertising in newspapers which falsely represented "savings of as much as 40% and 70%", and represented prices falsely as reduced from regular prices which were in fact fictitious; and by failing to maintain adequate records on which such pricing claims were based.

Following acceptance of an agreement containing a consent order, the hearing examiner made his initial decision and order to cease and desist which became on September 17 the decision of the Commission.

The order to cease and desist is as follows:

It is ordered, That Steven Hasso and Richard Hasso, individually and as copartners, trading as Hasso's Furs or under any other name, and respondents' representatives, agents and employees, directly or through any corporate or other device, in connection with the introduction into commerce, or the sale, advertising or offering for sale, transportation or distribution, in commerce, of fur products; or in connection with the sale, advertising, offering for sale, transportation, or distribution of fur products which are made in whole or in part of fur which has been shipped and received in commerce, as "commerce", "fur" and "fur product" are defined in the Fur Products Labeling Act, do forthwith cease and desist from:

1. Misbranding fur products by:

A. Falsely or deceptively labeling or otherwise identifying such products as to the regular prices thereof by any representation that the regular or usual prices of such products are any amounts in excess of the prices at which respondents have usually and customarily sold such products in the recent regular course of business;

2. Falsely or deceptively advertising fur products through the use of any advertisement, representation, public announcement, or notice which is intended to aid, promote or assist, directly or indirectly, in the sale, or offering for sale of fur products, and which:

A. Represents, directly or by implication, that the regular or usual price of any fur products is any amount which is in excess of the price at which respondents have usually and customarily sold such products in the recent regular course of business;

B. Represents, directly or by implication, through percentage savings claims, that the regular or usual retail prices charged by respondents for fur products in the recent and regular course of business are reduced in direct proportion to the amount of savings stated, when contrary to fact;

C. Misrepresents in any manner the savings available to purchasers of respondents' fur products;

3. Making claims or representations in advertisements respecting prices or values of fur products unless respondents maintain full and adequate records disclosing the facts upon which such claims and representations are based.

By "Decision of the Commission", etc., report of compliance was required as follows:

It is ordered, That respondents Steven Hasso and Richard Hasso, individually and as copartners trading as Hasso's Furs, shall, within sixty (60) days after service upon them of this order, file with the Commission a report in writing, setting forth in detail the manner and form in which they have complied with the order to cease and desist.

Issued: September 17, 1959.

By the Commission.

[SEAL] ROBERT M. PARRISH, *Secretary.*

[F.R. Doc. 59-10151; Filed, Dec. 2, 1959; 8:46 a.m.]

[Docket 7485 c.o.]

PART 13—DIGEST OF CEASE AND DESIST ORDERS

International Housewares, Inc., et al.

Subpart—*Advertising falsely or misleadingly:* § 13.15 *Business status, advantages, or connections:* Personnel or Staff; Producer Status of Dealer or Seller: *Laboratory; Manufacturer;* § 13.90 *History of product or offering;* § 13.105 *Individual's special selection or situation;* § 13.205 *Scientific or other relevant facts;* § 13.240 *Special or limited offers.*

(Sec. 6, 38 Stat. 721; 15 U.S.C. 46. Interpret or apply sec. 5, 38 Stat. 719, as amended; 15 U.S.C. 45) [Cease and desist order, International Housewares, Inc., et al., Niagara Falls, New York, Docket 7485, September 17, 1959]

In the Matter of International Housewares, Inc., a Corporation; and Richard J. Day, Andrew Foti, and Anthony Geraci, Individually and as Officers of Said Corporation

This proceeding was heard by a hearing examiner on the complaint of the Commission charging Niagara Falls, N.Y., distributors of "Kitchen Queen Stainless Steel Waterless Cookware" with representing falsely in advertising literature furnished their distributors, including sales training manuals, charts, leaflets, cookbooks, and brochures, that use of said utensils and the "waterless" method of cooking would protect health; that the utensils were new and revolutionary; that their sales personnel were members of their advertising department and that the offer they made was a "special advertising offer" at special reduced prices and only to selected customers; and that they manufactured their products and tested them in their own laboratory.

Following acceptance of an agreement containing a consent order, the hearing examiner made his initial decision and order to cease and desist which became on September 17 the decision of the Commission.

The order to cease and desist is as follows:

It is ordered, That respondents, International Housewares, Inc., a corporation, and its officers, and Richard J. Day, Andrew Foti, and Anthony Geraci, individually and as officers of said corporation, and respondents' agents, representatives, and employees, directly or through any corporate or other device, in connection with the offering for sale, sale or distribution in commerce, as "commerce" is defined in the Federal Trade Commission Act, of stainless steel cooking utensils or any other cooking utensils of substantially similar composition, design, construction, or purpose, do forthwith cease and desist from:

1. Representing, directly or by implication:

(a) That the use of respondents' utensils and the "waterless" method of cooking will promote or is conducive to better health of the users thereof. However, nothing contained herein shall prevent respondents from representing that more vitamins and minerals are retained in food cooked in their utensils and using the "waterless" method of cooking than when cooked in other utensils requiring substantially larger quantities of water.

(b) That respondents' utensils are new and revolutionary;

(c) That respondents' sales personnel are members of their advertising department or are other than salesmen;

(d) That respondents' offer to sell said utensils is for the purpose of advertising or is a "special advertising offer";

(e) That the prices at which respondents' utensils are offered for sale are special or reduced prices, unless such is the fact;

(f) That respondents do not sell their utensils to everyone but only to selected customers, or those who qualify;

(g) That respondents own, operate or control a factory wherein said utensils are manufactured or that respondents own, operate or control a laboratory wherein said utensils are tested.

2. Furnishing means or instrumentalities to others by and through which they may mislead and deceive the public respecting the matters set forth in paragraph 1 hereof.

It is further ordered, That the charge contained in paragraph five (c), "That purchasers of said utensils will save on their fuel and food bills", be, and the same hereby is, dismissed.

By "Decision of the Commission", etc., report of compliance was required as follows:

It is ordered, That the respondents herein shall, within sixty (60) days after service upon them of this order, file with the Commission a report in writing setting forth in detail the manner and form in which they have complied with the order to cease and desist.

Issued: September 17, 1959.

By the Commission.

[SEAL] ROBERT M. PARRISH, *Secretary.*

[F.R. Doc. 59-10152; Filed, Dec. 2, 1959; 8:46 a.m.]

[Docket 7481 c.o.]

PART 13—DIGEST OF CEASE AND DESIST ORDERS

Neptune Garment Co. and Cecil S. Rose

Subpart—*Advertising falsely or misleadingly:* § 1385 *Government approval, action, connection or standards:* Government Indorsement or Certification. Subpart—*Claiming or using indorsements or testimonials falsely or misleadingly:* § 13.330 *Claiming or using indorsements or testimonials falsely or misleadingly.* Subpart—*Misbranding or mislabeling:* § 13.1235 *Indorsements, approval, or awards;* § 13.1255 *Manufacture or preparation.*

(Sec. 6, 38 Stat. 721; 15 U.S.C. 46. Interpret or apply sec. 5, 38 Stat. 719, as amended; 15 U.S.C. 45) [Cease and desist order, Neptune Garment Company et al., Boston, Mass., Docket 7481, September 17, 1959]

In the Matter of Neptune Garment Company, a Corporation, and Cecil S. Rose, Individually and as an Officer of Said Corporation

This proceeding was heard by a hearing examiner on the complaint of the Commission charging a Boston rain wear manufacturer with representing falsely by such means as attached labels that raincoats it sold to Air Force Post Exchanges were "Approved by Headquarters Air Materiel Command USAF * * * Mfd'd in Strict Accordance with Specification No. MILR 3386A With AF Approved Material".

Based on a consent agreement, the hearing examiner made his initial decision and order to cease and desist which became on September 17 the decision of the Commission.

The order to cease and desist is as follows:

It is ordered, That Neptune Garment Company, a corporation, and its officers, and Cecil S. Rose, individually and as an officer of the corporation, and respondents' representatives, agents and employees, directly or through any corporate or other device, in connection with the offering for sale, sale or distribution of rain-wear or any other merchandise, in commerce, as "commerce" is defined in the Federal Trade Commission Act, do forthwith cease and desist from representing that said merchandise has been manufactured in accordance with Air Force or any other military or governmental specifications, or with Air Force or any other military or governmentally approved material when such is not in accordance with the facts.

By "Decision of the Commission", etc., report of compliance was required as follows:

It is ordered, That respondents herein shall, within sixty (60) days after service upon them of this order, file with the Commission a report in writing setting forth in detail the manner and form in which they have complied with the order to cease and desist.

Issued: September 17, 1959.

By the Commission.

[SEAL] ROBERT M. PARRISH, *Secretary.*

[F.R. Doc. 59-10153; Filed, Dec. 2, 1959; 8:46 a.m.]

[Docket 7506 c.o.]

PART 13—DIGEST OF CEASE AND DESIST ORDERS

Office of Labor Statistics et al.

Subpart—*Acquiring confidential information unfairly:* § 13.1 *Acquiring confidential information unfairly.* Subpart—*Advertising falsely or misleadingly:* § 13.15 *Business status, advantages, or connections:* Government Connection; Nature. Subpart—*Using misleading name*—Vendor: § 13.2380 *Government connection;* § 13.2425 *Nature, in general.*

(Sec. 6, 38 Stat. 721; 15 U.S.C. 46. Interpret or apply sec. 5, 38 Stat. 719, as amended; 15 U.S.C. 45) [Cease and desist order, Office of Labor Statistics (Newark, N.J.) et al., Docket 7506, September 23, 1959]

In the Matter of Office of Labor Statistics, a Corporation, and Lois G. Kaplan and Pearl Escort, Individually and as Officers of Said Corporation; and Ronald Kaplan, an Individual

This proceeding was heard by a hearing examiner on the complaint of the Commission charging a Newark, N.J., concern engaged in the sale of collection forms and questionnaires to obtain information concerning delinquent debtors, with representing falsely that it was an agency of the U.S. Government, through use of the name "Office of Labor Statistics * * * Washington, D.C." with the picture of an eagle similar to that used on the U.S. Government seal.

On the basis of an agreement containing a consent order, the hearing examiner made his initial decision and order to cease and desist which became on September 23 the decision of the Commission.

The order to cease and desist is as follows:

It is ordered, That respondents, Office of Labor Statistics, a corporation, and its officers, and Lois G. Kaplan and Pearl Escort, individually and as officers of said corporation, and Ronald Kaplan, individually, and respondents' representatives, agents and employees, directly or through any corporate or other device, in connection with the business of obtaining information concerning delinquent debtors, or the offering for sale, sale or distribution of forms or other materials, for use in obtaining information concerning delinquent debtors, or in the collection of, or attempting to collect accounts, in commerce, as "commerce" is defined in the Federal Trade Commission Act, do forthwith cease and desist from:

1. Using the term "Office of Labor Statistics" or the picturization of an eagle, or any other word or phrase, or picturization of similar import to designate, describe or refer to respondents' business; or otherwise representing, directly or by implication, that requests for information concerning delinquent debtors are from the United States Government or any agency, or branch thereof, or that their business is in any way connected with the United States Government.

2. Using, or placing in the hands of others for use, any forms, questionnaires or other materials, printed or written, which do not clearly reveal that the purpose for which the information is requested is that of obtaining information concerning delinquent debtors.

By "Decision of the Commission", etc., report of compliance was required as follows:

It is ordered, That the respondents herein shall, within sixty (60) days after service upon them of this order, file with the Commission a report in writing setting forth in detail the manner and form in which they have complied with the order to cease and desist.

Issued: September 23, 1959.

By the Commission.

[SEAL] ROBERT M. PARRISH, *Secretary.*

[F.R. Doc. 59-10154; Filed, Dec. 2, 1959; 8:46 a.m.]

Title 26—INTERNAL REVENUE

Chapter I—Internal Revenue Service, Department of the Treasury

SUBCHAPTER A—INCOME AND EXCESS-PROFITS TAXES

[T.D. 6429]

[Reg. 118]

PART 39—INCOME TAX; TAXABLE YEARS BEGINNING AFTER DECEMBER 31, 1951

Tax Treatment of Patronage Dividends Received From Cooperative Associations

On March 11, 1959, notice of proposed rule making regarding an amendment of Regulations 118 (26 CFR (1939) Part 39), relating to the tax treatment of patronage dividends received from cooperative associations, to conform to the decisions in Long Poultry Farms, Inc. v. Commissioner (C.A. 4th 1957) 249 F. 2d 726,

and Commissioner v. B. A. Carpenter (C.A. 5th 1955) 219 F. 2d 635, and to make certain clarifying changes therein, was published in the FEDERAL REGISTER (24 F.R. 1750). After consideration of all such relevant matter as was presented by interested persons regarding the rules proposed, the following regulations are hereby adopted:

PARAGRAPH 1. Section 39.22(a)-23 is amended as follows:

(A) By striking paragraph (b) and inserting in lieu thereof the following:

§ 39.22(a)-23 Allocations by cooperative associations; tax treatment as to patrons.

* * * * *

(b) *Extent of taxability.* (1) Amounts allocated to a patron on a patronage basis by a cooperative association with respect to products marketed for such patron, or with respect to supplies, equipment, or services, the cost of which was deductible by the patron under section 23(a) (1) or (2), shall be included in the computation of the gross income of such patron, as ordinary income, to the following extent:

(i) If the allocation is in cash, the amount of cash received.

(ii) If the allocation is in merchandise, the amount of the fair market value of such merchandise at the time of receipt by the patron.

(iii) If the allocation is in the form of revolving fund certificates, retain certificates, certificates of indebtedness, letters of advice, or similar documents, the amount of the fair market value of such document at the time of its receipt by the patron. For purposes of this subdivision, any document containing an unconditional promise to pay a fixed sum of money on demand or at a fixed or determinable time shall be considered to have a fair market value at the time of its receipt by the patron, unless it is clearly established to the contrary. However, for purposes of this subdivision, any document which is payable only in the discretion of the cooperative association, or which is otherwise subject to conditions beyond the control of the patron, shall be considered not to have any fair market value at the time of its receipt by the patron, unless it is clearly established to the contrary.

(iv) If the allocation is in the form of capital stock, the amount of the fair market value, if any, of such capital stock at the time of its receipt by the patron.

(2) If any allocation to which subparagraph (1) of this paragraph applies is received in the form of a document of the type described in subparagraph (1) (iii) or (iv) of this paragraph and is redeemed in full or in part or is otherwise disposed of, there shall be included in the computation of the gross income of the patron, as ordinary income, in the year of redemption or other disposition, the excess of the amount realized on the redemption or other disposition over the amount previously included in the computation of gross income under such subparagraph.

(3) (i) Amounts which are allocated on a patronage basis by a cooperative association with respect to supplies, equipment, or services, the cost of which was not deductible by the patron under section 23(a) (1) or (2), are not includible in the computation of the gross income of such patron. However, in the case of such amounts which are allocated with respect to capital assets (as defined in section 117(a)(1)) or property used in the trade or business within the meaning of section 117(j), such amounts shall, to the extent set forth in subparagraph (1) of this paragraph, be taken into account by such patron in determining the cost of the property to which the allocation relates. Notwithstanding the preceding sentence, to the extent that such amounts are in excess of the unrecovered cost of such property, and to the extent that such amounts relate to such property which the patron no longer owns, they shall be included in the computation of the gross income of such patron.

(ii) If any patronage dividend is allocated to the patron in the form of a document of the type described in subparagraph (1) (iii) or (iv) of this paragraph, and if such allocation is with respect to capital assets (as defined in section 117(a)(1) or property used in the trade or business within the meaning of section 117(j), any amount realized on the redemption or other disposition of such document which is in excess of the amount which was taken into account upon the receipt of the document by the patron shall be taken into account by such patron in the year of redemption or other disposition as an adjustment to basis or as an inclusion in the computation of gross income, as the case may be.

(iii) Any adjustment to basis in respect of an amount to which subdivision (i) or (ii) of this subparagraph applies shall be made as of the first day of the taxable year in which such amount is received.

(iv) The application of the provisions of this subparagraph may be illustrated by the following examples:

Example (1). On July 1, 1952, P, a patron of a cooperative association, purchases a tractor for use in his farming business from such association for $2,200. The tractor has an estimated useful life of five years and an estimated salvage value of $200. P files his income tax returns on a calendar year basis and claims depreciation on the tractor for the year 1952 of $200 pursuant to his use of the straight-line method at the rate of $400 per year. On July 1, 1953, the cooperative association allocates to P with respect to his purchase of the tractor a dividend of $300 in cash. P will reduce his depreciation allowance with respect to the tractor for 1953 (and subsequent taxable years) to $333.33, determined as follows:

Cost of tractor, July 1, 1952		$2,200
Less:		
Depreciation for 1952 (6 mos.)	$200	
Adjustment as of January 1, 1953, for cash patronage dividend	300	
Salvage value	200	
		700
Basis for depreciation for the remaining 4½ years of estimated life		1,500
Basis for depreciation divided by the 4½ years of remaining life		333.33

Example (2). Assume the same facts as in example (1), except that on July 1, 1953, the cooperative association allocates a dividend to P with respect to his purchase of the tractor in the form of a revolving fund certificate having a face amount of $300. The certificate is redeemable in cash at the discretion of the directors of the association, is subject to diminution by any future losses of the association, and has no fair market value when received by P. Since the certificate had no fair market value when received by P, no amount with respect to such certificate shall be taken into account by him in the year 1953.

Example (3). In 1953, Y, a patron of a cooperative association, receives $300 cash from the association in full redemption of a revolving fund certificate issued to Y on July 1, 1948, with respect to a tractor Y purchased on July 1, 1947, for use in his farming business at a cost of $2,200. Y, who files his returns on the basis of the calendar year, has not included any amount in the computation of his gross income for any taxable year insofar as his receipt of this certificate is concerned. Prior to 1953, Y had recovered through depreciation $2,000 of the cost of the tractor, leaving an unrecovered cost of $200 (the salvage value). For the year 1953, the redemption proceeds of $300 are applied against the unrecovered cost of $200, reducing the basis to zero, and the balance of the redemption proceeds, $100, is includible in the computation of Y's gross income.

Example (4). On July 1, 1952, Z, a patron of a cooperative association, receives $300 cash from the association in full redemption of a revolving fund certificate issued to him on July 1, 1951, with respect to a tractor Z purchased from the association on July 1, 1949, for use in his farming business at a cost of $2,200. Z, who files his returns on the basis of the calendar year, has not included any amount in the computation of his gross income for any taxable year prior to 1952 insofar as his receipt of the revolving fund certificate is concerned. Prior to 1952, Z had recovered $1,000 through depreciation deductions in 1949, 1950, and 1951, since the depreciation allowable amounted to $400 a year, the salvage value of the tractor being $200 and its useful life being five years. The full $300 received on redemption of the certificate will be applied against the unrecovered cost of the tractor as of January 1, 1952, computed as follows:

Cost of tractor, July 1, 1949		$2,200
Less:		
Depreciation for 1949 (6 mos.)	$200	
Depreciation for 1950	400	
Depreciation for 1951	400	
		1,000
Unrecovered cost on Jan. 1, 1952		1,200
Adjustment as of Jan. 1, 1952, for proceeds of the redemption of the revolving fund certificate		300
Unrecovered cost on Jan. 1, 1952, after adjustment		900
Less: Salvage value		200
Basis for depreciation on Jan. 1, 1952		700
If Z uses the tractor in his business until June 30, 1954, he would be entitled to the following depreciation allowances with respect to the tractor:		
For 1952	$280	
For 1953	280	
For 1954 (6 mos.)	140	
		700
Balance to be depreciated		0

Example (5). Assume the same facts as in example (4), except that Z sells the tractor

in 1951. The entire $300 received in 1952 in redemption of the revolving fund certificate is includible in the computation of Z's gross income for the year 1952.

(B) By adding at the end of paragraph (b) the following new paragraph (c):

(c) *Special rule.* If, for any taxable year ending before the date of publication of this paragraph in the FEDERAL REGISTER as a Treasury decision, a taxpayer treated any patronage dividend received in the form of a document described in paragraph (b)(1)(iii) or (iv) of this section in accordance with the regulations then applicable (whether such dividend is subject to paragraph (b)(1) or (3) of this section), such taxpayer is not required to change the treatment of such patronage dividends for any such prior taxable year. On the other hand, the taxpayer may, if he so desires, amend his income tax returns to treat the receipt of such patronage dividend in accordance with the provisions of this section, but no provision in this paragraph shall be construed as extending the period of limitations within which a claim for credit or refund may be filed under section 322.

PAR. 2. The amendment to § 39.22 (a)-23 (Regulations 118), covering taxable years beginning after December 31, 1951, set forth in this Treasury decision, is applicable to taxable years beginning after December 31, 1941, and before January 1, 1952 (such years being covered by Regulations 111).

This Treasury decision is issued under the authority contained in sections 62 and 3791 of the Internal Revenue Code of 1939 (53 Stat. 32, 467; 26 U.S.C. 62, 3791).

DANA LATHAM,
Commissioner of Internal Revenue.

Approved: November 30, 1959.

FRED C. SCRIBNER, Jr.,
Acting Secretary of the Treasury.

[F.R. Doc. 59-10171; Filed, Dec. 2, 1959; 8:49 a.m.]

Title 26—INTERNAL REVENUE, 1954

Chapter I—Internal Revenue Service, Department of the Treasury

SUBCHAPTER A—INCOME TAX

[T.D. 6428]

PART 1—INCOME TAX; TAXABLE YEARS BEGINNING AFTER DECEMBER 31, 1953

Tax Treatment of Patronage Dividends Received From Cooperative Associations

On March 11, 1959, notice of proposed rule making regarding an amendment of the Income Tax Regulations (26 CFR Part 1), relating to the tax treatment of patronage dividends received from cooperative associations, to conform to the decisions in Long Poultry Farms, Inc. v. Commissioner (C.A. 4th 1957) 249 F. 2d 726, and Commissioner v. B. A. Carpenter (C.A. 5th 1955) 219 F. 2d 635, and to make certain clarifying changes therein, was published in the FEDERAL REGISTER (24 F.R. 1752). After consideration of all such relevant matter as was presented by interested persons regarding the rules proposed, the following regulations are hereby adopted:

PARAGRAPH 1. Section 1.61-5 is amended as follows:

(A) By striking paragraph (b) and inserting in lieu thereof the following:

§ 1.61-5 Allocations by cooperative associations; tax treatment as to patrons.

* * * * *

(b) *Extent of taxability.* (1) Amounts allocated to a patron on a patronage basis by a cooperative association with respect to products marketed for such patron, or with respect to supplies, equipment, or services, the cost of which was deductible by the patron under section 162 or section 212, shall be included in the computation of the gross income of such patron, as ordinary income, to the following extent:

(i) If the allocation is in cash, the amount of cash received.

(ii) If the allocation is in merchandise, the amount of the fair market value of such merchandise at the time of receipt by the patron.

(iii) If the allocation is in the form of revolving fund certificates, retain certificates, certificates of indebtedness, letters of advice, or similar documents, the amount of the fair market value of such document at the time of its receipt by the patron. For purposes of this subdivision, any document containing an unconditional promise to pay a fixed sum of money on demand or at a fixed or determinable time shall be considered to have a fair market value at the time of its receipt by the patron, unless it is clearly established to the contrary. However, for purposes of this subdivision, any document which is payable only in the discretion of the cooperative association, or which is otherwise subject to conditions beyond the control of the patron, shall be considered not to have any fair market value at the time of its receipt by the patron, unless it is clearly established to the contrary.

(iv) If the allocation is in the form of capital stock, the amount of the fair market value, if any, of such capital stock at the time of its receipt by the patron.

(2) If any allocation to which subparagraph (1) of this paragraph applies is received in the form of a document of the type described in subparagraph (1)(iii) or (iv) of this paragraph and is redeemed in full or in part or is otherwise disposed of, there shall be included in the computation of the gross income of the patron, as ordinary income, in the year of redemption or other disposition, the excess of the amount realized on the redemption or other disposition over the amount previously included in the computation of gross income under such subparagraph.

(3)(i) Amounts which are allocated on a patronage basis by a cooperative association with respect to supplies, equipment, or services, the cost of which was not deductible by the patron under section 162 or section 212, are not includible in the computation of the gross income of such patron. However, in the case of such amounts which are allocated with respect to capital assets (as defined in section 1221) or property used in the trade or business within the meaning of section 1231, such amounts shall, to the extent set forth in subparagraph (1) of this paragraph, be taken into account by such patron in determining the cost of the property to which the allocation relates. Notwithstanding the preceding sentence, to the extent that such amounts are in excess of the unrecovered cost of such property, and to the extent that such amounts relate to such property which the patron no longer owns, they shall be included in the computation of the gross income of such patron.

(ii) If any patronage dividend is allocated to the patron in the form of a document of the type described in subparagraph (1)(iii) or (iv) of this paragraph, and if such allocation is with respect to capital assets (as defined in section 1221) or property used in the trade or business within the meaning of section 1231, any amount realized on the redemption or other disposition of such document which is in excess of the amount which was taken into account upon the receipt of the document by the patron shall be taken into account by such patron in the year of redemption or other disposition as an adjustment to basis or as an inclusion in the computation of gross income, as the case may be.

(iii) Any adjustment to basis in respect of an amount to which subdivision (i) or (ii) of this subparagraph applies shall be made as of the first day of the taxable year in which such amount is received.

(iv) The application of the provisions of this subparagraph may be illustrated by the following examples:

Example (1). On July 1, 1959, P, a patron of a cooperative association, purchases a tractor for use in his farming business from such association for $2,200. The tractor has an estimated useful life of five years and an estimated salvage value of $200. P files his income tax returns on a calendar year basis and claims depreciation on the tractor for the year 1959 of $200 pursuant to his use of the straight-line method at the rate of $400 per year. On July 1, 1960, the cooperative association allocates to P with respect to his purchase of the tractor a dividend of $300 in cash. P will reduce his depreciation allowance with respect to the tractor for 1960 (and subsequent taxable years) to $333.33, determined as follows:

Cost of tractor, July 1, 1959		$2,200
Less:		
Depreciation for 1959 (6 mos.)	$200	
Adjustment as of Jan. 1, 1960, for cash patronage dividend	300	
Salvage value	200	
		700
Basis for depreciation for the remaining 4½ years of estimated life		1,500
Basis for depreciation divided by the 4½ years of remaining life		333.33

Example (2). Assume the same facts as in example (1), except that on July 1, 1960, the cooperative association allocates a dividend to P with respect to his purchase of the tractor in the form of a revolving fund certificate having a face amount of $300. The certificate is redeemable in cash at the discretion of the directors of the association and is subject to diminution by any future losses of the association, and has no fair market value when received by P. Since the certificate had no fair market value when received by P, no amount with respect to such certificate was taken into account by him in the year 1960. In 1965, P receives $300 cash from the association in full redemption of the certificate. Prior to 1965, he had recovered through depreciation $2,000 of the cost of the tractor, leaving an unrecovered cost of $200 (the salvage value). For the year 1965, the redemption proceeds of $300 are applied against the unrecovered cost of $200, reducing the basis to zero, and the balance of the redemption proceeds, $100, is includible in the computation of P's gross income.

Example (3). Assume the same facts as in example (2), except that the certificate is redeemed in full on July 1, 1962. The full $300 received on redemption of the certificate will be applied against the unrecovered cost of the tractor as of January 1, 1962, computed as follows:

Cost of tractor, July 1, 1959		$2,200
Less:		
Depreciation for 1959 (6 mos.)	$200	
Depreciation for 1960	400	
Depreciation for 1961	400	
		1,000
Unrecovered cost on Jan. 1, 1962		1,200
Adjustment as of Jan. 1, 1962, for proceeds of the redemption of the revolving fund certificate		300
Unrecovered cost on Jan. 1, 1962, after adjustment		900
Less: Salvage value		200
Basis for depreciation on Jan. 1, 1962		700
If P uses the tractor in his business until June 30, 1964, he would be entitled to the following depreciation allowances with respect to the tractor:		
For 1962	$280	
For 1963	280	
For 1964 (6 mos.)	140	
		700
Balance to be depreciated		0

Example (4). Assume the same facts as in example (3), except that P sells the tractor in 1961. The entire $300 received in 1962 in redemption of the revolving fund certificate is includible in the computation of P's gross income for the year 1962.

(B) By adding at the end of paragraph (b) the following new paragraph:

(c) *Special rule.* If, for any taxable year ending before the date of publication of this paragraph in the FEDERAL REGISTER as a Treasury decision, a taxpayer treated any patronage dividend received in the form of a document described in paragraph (b) (1) (iii) or (iv) of this section in accordance with the regulations then applicable (whether such dividend is subject to paragraph (b) (1) or (3) of this section), such taxpayer is not required to change the treatment of such patronage dividends for any such prior taxable year. On the other hand, the taxpayer may, if he so desires, amend his income tax returns to treat the receipt of such patronage dividend in accordance with the provisions of this section, but no provision in this paragraph shall be construed as extending the period of limitations within which a claim for credit or refund may be filed under section 6511.

This Treasury decision is issued under the authority contained in section 7805 of the Internal Revenue Code of 1954 (68A Stat. 917; 26 U.S.C. 7805).

[SEAL] DANA LATHAM,
Commissioner of Internal Revenue.

Approved: November 30, 1959.

FRED C. SCRIBNER, Jr.,
Acting Secretary of the Treasury.

[F.R. Doc. 59-10170; Filed, Dec. 2, 1959; 8:49 a.m.]

[T.D. 6427]

PART 1—INCOME TAX; TAXABLE YEARS BEGINNING AFTER DECEMBER 31, 1953

Miscellaneous Amendments

The Income Tax Regulations (26 CFR Part 1) under section 545 (relating to definition of undistributed personal holding company income) and section 6012 (relating to persons required to make returns of income) of the Internal Revenue Code of 1954 are hereby amended. Except as otherwise provided, such amendments are effective for taxable years beginning after December 31, 1953, and ending after August 16, 1954.

PARAGRAPH 1. Paragraph (b) of § 1.545-1 is amended by adding the following new sentence at the end thereof:

§ 1.545-1 Definition.

* * * * *

(b) * * * For purposes of this paragraph, a nonresident foreign corporation will be considered to have filed a return for any taxable year ending before September 9, 1958, if the return for any such taxable year is filed on or before February 5, 1960.

PAR. 2. Paragraph (g) (1) (i) of § 1.6012-2 is amended by adding the following at the end thereof:

§ 1.6012-2 Corporations required to make returns of income.

* * * * *

(g) *Returns by foreign corporations*—(1) *Nonresident foreign corporations*—(i) *In general.* * * * The tax liability of a nonresident foreign corporation is not fully satisfied at the source in any case where, if it were not for the allowance of deductions to such corporation, it would be liable for tax. For example, the tax liability of a nonresident foreign corporation which is a personal holding company (as defined in section 542) is not fully satisfied at the source if such corporation would be liable for the personal holding company tax imposed by section 541 if it were not for the fact that it may be allowed a deduction for dividends paid (as defined in section 561). See section 545, relating to the definition of undistributed personal holding company income, and section 882 (c) (1), relating to allowance of deductions only if a return is filed.

Because this Treasury decision merely clarifies and liberalizes certain rules, it is found that it is unnecessary to issue this Treasury decision with notice and public procedure thereon under section 4(a) of the Administrative Procedure Act, approved June 11, 1946, or subject to the effective date limitation of section 4(c) of that Act.

This Treasury decision is issued under the authority contained in section 7805 of the Internal Revenue Code of 1954 (68A Stat. 917; 26 U.S.C. 7805).

[SEAL] DANA LATHAM,
Commissioner of Internal Revenue.

Approved: November 30, 1959.

FRED C. SCRIBNER, Jr.,
Acting Secretary of the Treasury.

[F.R. Doc. 59-10175; Filed, Dec. 2, 1959; 8:49 a.m.]

SUBCHAPTER D—MISCELLANEOUS EXCISE TAXES

[T.D. 6430]

PART 49—FACILITIES AND SERVICES EXCISE TAXES

The regulations set forth below are hereby prescribed to provide introductory provisions of the Facilities and Services Excise Tax Regulations (26 CFR Part 49), relating to the taxes imposed by chapter 33 of the Internal Revenue Code of 1954, as amended, and to provide regulations under certain provisions of that chapter relating to transportation of persons and safe deposit boxes. The regulations, except where otherwise specifically provided, are applicable in respect of amounts paid on or after January 1, 1959. Regulations under other provisions of chapter 33 and under those administrative provisions of subtitle F of the Code which have special application to the taxes imposed by such chapter will be separately published.

Subpart A—Introduction

Sec.
49.0-1 Introduction.
49.0-2 General definitions and use of terms.
49.0-3 Scope of regulations.
49.0-4 Extent to which the regulations in this part supersede prior regulations.

Subpart D—Transportation of Persons

49.4261 Statutory provisions; imposition of tax; amounts paid within the United States; amounts paid outside the United States; seats, berths, etc.; by whom paid.
49.4261-1 Imposition of tax; in general.
49.4261-2 Rate and application of tax.
49.4261-3 Payments made within the United States.
49.4261-4 Payments made within the United States; evidence of nontaxability.
49.4261-5 Payments made outside the United States.
49.4261-6 Payments made outside the United States; evidence of nontaxability.
49.4261-7 Examples of payments subject to tax.
49.4261-8 Examples of payments not subject to tax.
49.4261-9 Seats and berths; rate and application of tax.
49.4261-10 By whom paid.

AUTHORITY: §§ 49.0-1 to 49.4287-1 issued under section 7805, I.R.C. 1954; 68A Stat. 917; 26 U.S.C. 7805.

Subpart A—Introduction

§ 49.0-1 Introduction.

(a) *In general.* The regulations in this part (Part 49, Subchapter D, Chapter I, Title 26 (1954) Code of Federal Regulations) are designated "Facilities and Services Excise Tax Regulations". The regulations relate to the taxes imposed by chapter 33 of the Internal Revenue Code of 1954, as amended, and to certain related administrative provisions of subtitle F of such Code. Chapter 33 of the Code imposes a tax on amounts paid for certain specified facilities and services. References in these regulations to the "Internal Revenue Code" or the "Code" are references to the Internal Revenue Code of 1954, as amended, unless otherwise indicated. References to a section or other provision of law are references to a section or other provision of the Internal Revenue Code, as amended, unless otherwise indicated.

(b) *Division of regulations.* The regulations in this part are divided into 7 subparts. Subpart A contains provisions relating to the arrangement and numbering of the sections of the regulations in this part, general definitions and use of terms, scope of regulations, and the extent to which the regulations in this part supersede prior regulations relating to the excise taxes imposed by chapter 33 of the Internal Revenue Code. The other subparts of the regulations in this part and the subject matter to which they relate are as follows:

Subpart B—Admissions and dues

Subpart C—Communications

Subpart D—Transportation of persons

Subpart E—Safe deposit boxes

Subpart F—Special provisions applicable to services and facilities taxes

Subpart G—Refunds and other administrative provisions of special application to facilities and services taxes

(c) *Arrangement and numbering.* Each section of the regulations in Subpart B through Subpart G is preceded by the section, subsection, or paragraph of the Internal Revenue Code which it interprets. The sections of the regulations can readily be distinguished from the sections of the Code since—

(1) The sections of the regulations are printed in larger type;

(2) The sections of the regulations are preceded by a section symbol and the part number, arabic numeral 49 followed by a decimal point (§ 49.); and

(3) The sections of the Code are preceded by "Sec.".

Each section of the regulations setting forth law or regulations is designated by a number composed of the part number followed by a decimal point (49.) and the number of the corresponding provision of the Internal Revenue Code. In the case of a section setting forth regulations, this designation is followed by a hyphen (-) and a number identifying such section.

§ 49.0-2 General definitions and use of terms.

As used in the regulations in this part, unless otherwise expressly indicated—

(a) The terms defined in the provisions of law contained in the regulations in this part shall have the meanings so assigned to them.

(b) The Internal Revenue Code of 1954 means the Act approved August 16, 1954 (68A Stat.), entitled "An Act to revise the internal revenue laws of the United States", as amended.

(c) District director means district director of internal revenue. The term also includes the Director of International Operations in all cases where the authority to perform the functions which may be performed by a district director has been delegated to the Director of International Operations.

(d) Calendar quarter means a period of 3 calendar months ending on March 31, June 30, September 30, or December 31.

§ 49.0-3 Scope of regulations.

The regulations in this part relate to the taxes imposed on amounts paid for the facilities and services referred to in Subparts B through E (see paragraph (b) of § 49.0-1) and, except where otherwise specifically provided, have application in respect of amounts paid on or after January 1, 1959. The provisions of the Internal Revenue Code set forth in the regulations in this part are, unless otherwise indicated, provisions of law in effect on January 1, 1959.

§ 49.0-4 Extent to which the regulations in this part supersede prior regulations.

The regulations in this part, with respect to the subject matter within the scope thereof, supersede the Facilities and Services Excise Tax Regulations contained in Part 42 of this chapter and, to the extent not superseded by the regulations contained in such Part 42, the following regulations and such regulations as prescribed and made applicable to the Internal Revenue Code of 1954 by Treasury Decision 6091, signed August 16, 1954 (19 F.R. 5167, Aug. 17, 1954):

Safe deposit boxes, transportation of oil by pipeline, telephone, telegraph, radio and cable messages and services, and transportation of persons.	Regulations 42 (1942 edition, as amended), 26 CFR (1939) Part 130.
Admissions, dues, and initiation fees.	Regulations 43 (1941 edition, as amended), 26 CFR (1939) Part 101.

Subpart D—Transportation of Persons

§ 49.4261 Statutory provisions; imposition of tax; amounts paid within the United States; amounts paid outside the United States; seats, berths, etc.; by whom paid.

SEC. 4261. *Imposition of tax.*—(a) *Amounts paid within the United States.* There is hereby imposed upon the amount paid within the United States for taxable transportation (as defined in section 4262) of any person by rail, motor vehicle, water, or air a tax equal to—

(1) 10 percent of the amount so paid before July 1, 1960; or

(2) 5 percent of the amount so paid on or after July 1, 1960.

(b) *Amounts paid outside the United States.* There is hereby imposed upon the amount paid without the United States for taxable transportation (as defined in section 4262) of any person by rail, motor vehicle, water, or air, but only if such transportation begins and ends in the United States, a tax equal to—

(1) 10 percent of the amount so paid before July 1, 1960; or

(2) 5 percent of the amount so paid on or after July 1, 1960.

(c) *Seats, berths, etc.* There is hereby imposed upon the amount paid for seating or sleeping accommodations in connection with transportation with respect to which a tax is imposed by subsection (a) or (b) a tax equivalent to—

(1) 10 percent of the amount so paid before July 1, 1960; or

(2) 5 percent of the amount so paid on or after July 1, 1960.

(d) *By whom paid.* Except as provided in section 4264, the taxes imposed by this section shall be paid by the person making the payment subject to the tax.

[Sec. 4261 as amended and in effect Jan. 1, 1959 and as further amended by sec. 4, Tax Rate Extension Act 1959 (73 Stat. 158)]

§ 49.4261–1 Imposition of tax; in general.

Section 4261 imposes a tax at a prescribed rate upon payments made for taxable transportation of persons by rail, motor vehicle, water, or air. For the definition of the term "taxable transportation", see section 4262 and §§ 49.4262(a)–1 and 49.4262(b)–1. The tax accrues at the time payment is made for the transportation, irrespective of when the transportation is furnished. The purpose of the transportation, whether business or pleasure, is immaterial. It is not necessary that the transportation be between two definite points. If not otherwise exempt, a payment for continuous transportation beginning and ending at the same point is subject to the tax.

§ 49.4261–2 Rate and application of tax.

(a) *Rate of tax.* Tax is imposed under section 4261 upon the amount paid for taxable transportation at the rate applicable on the date on which payment for the transportation is made as specified below:

	Percent
(1) With respect to amounts paid before July 1, 1960	10
(2) With respect to amounts paid on or after July 1, 1960	5

For purposes of determining the applicable rate of tax, it is immaterial that the taxable transportation begins or ends before, on, or after July 1, 1960. For the rate and application of tax with respect to amounts paid for seating or sleeping accommodations in connection with taxable transportation, see § 49.4261–9.

(b) *Tax on total amount paid.* The tax is measured by the total amount paid, whether paid at one time or collected at intervals during the course of a continuous transportation, as in the case of a carrier operating under the zone system.

(c) *Tax on transportation of each person.* The tax is determined by the amount paid for transportation with respect to each person. Thus, where a single payment is made for the transportation of two or more persons, the taxability of the payment and the amount of the tax, if any, payable with respect thereto, must be determined on the basis of the portion of the total payment properly allocable to each person transported.

(d) *Charges for nontransportation services.* Where a payment covers charges for nontransportation services as well as for transportation of a person, such as charges for meals, hotel accommodations, etc., the charges for the nontransportation services may be excluded in computing the tax payable with respect to such payment, provided such charges are separable and are shown in the exact amounts thereof in the records pertaining to the transportation charge. If the charges for nontransportation services are not separable from the charge for transportation of the person, the tax must be computed upon the full amount of the payment.

§ 49.4261–3 Payments made within the United States.

(a) *Transportation beginning and ending in the United States or the 225-mile zone.* The tax imposed by section 4261(a) applies to payments made within the United States for transportation which begins in the United States or in the 225-mile zone and ends in the United States or in the 225-mile zone. For example, an amount paid within the United States for transportation between New York and Montreal, Canada; between Vancouver, Canada, and Windsor, Canada; or between Nogales, Mexico, and Hermosillo, Mexico, would be fully taxable. See section 4262(c)(2) and paragraph (b) of § 49.4262(c)–1 for the definition of the term "225-mile zone".

(b) *Other transportation.* In the case of transportation other than that described in paragraph (a) of this section for which payment is made in the United States, the tax applies with respect to the amount paid for that portion of such transportation which is directly or indirectly from one port or station in the United States to another port or station in the United States. Transportation that (1) begins in the United States or in the 225-mile zone and ends outside such area, (2) begins outside the United States or the 225-mile zone and ends inside such area, or (3) begins outside the United States and ends outside such area is taxable only with respect to such portion of the transportation which is directly or indirectly from one port or station in the United States to another such port or station. Thus, on a trip from Chicago to London, England, with a stop at New York, for which payment is made in the United States, the tax would apply to the part of the payment which is applicable to the transportation from Chicago to New York.

(c) *Method of computing tax on taxable portion.* Where a payment is made for transportation which is partially taxable under paragraph (b) of this section—

(1) The tax may be computed on that proportion of the total amount paid which the mileage of the taxable portion of the transportation bears to the mileage of the entire trip, or

(2) The tax may be computed on the basis of the applicable local fare for transportation of a like class between the ports or stations referred to in paragraph (b) of this section. Where a uniform fare is charged for transportation between a station and any coastal gateway point of embarkation on a trip to the same international destination, the tax may be computed on the basis of such uniform fare. In the absence of a fare described in this subparagraph, the tax must be determined in accordance with subparagraph (1) of this paragraph. If an international trip includes a leg between coastal gateway points of embarkation for which no additional fare is charged, no tax shall be applicable to such leg of the transportation.

(d) *Cross reference.* See section 4262(b) and § 49.4262(b)–1 for a partial exclusion with respect to amounts paid for certain transportation.

§ 49.4261–4 Payments made within the United States; evidence of nontaxability.

(a) *Presumption of taxability.* The tax imposed by section 4261(a) shall apply to any amount paid within the United States for the transportation of any person, unless the taxpayer establishes in accordance with the provisions of this section that at the time of payment the transportation is not transportation in respect of which tax is imposed by section 4261(a) (see section 4264(d)).

(b) *Through tickets.* In the case of transportation which is wholly or in part not taxable transportation, the issuance of one ticket (commonly known as a "through ticket") covering such transportation will be sufficient to establish that the amount paid for such transportation is wholly or in part not subject to tax. Thus, if A purchases a through ticket in the United States for transportation by air from Chicago to Edmonton, Canada, with a stop at Minneapolis, no further evidence will be required to establish that no tax applies with respect to the amount paid for the portion of the transportation between Minneapolis and Edmonton.

(c) *Separate tickets.* Where a separate ticket or order is issued for taxable transportation as defined in section 4262(a)(1) (referred to in this subpart as the "domestic ticket or order"), but the domestic ticket or order is to be used in conjunction with a ticket or order for additional transportation (referred to in this subpart as the "international ticket or order") which changes the tax consequences, unless the domestic ticket or order and the international ticket or order are purchased from a single agency or carrier at the same time, the person making payment for the domestic ticket or order shall at the time of payment exhibit the international ticket or order to the agency or carrier receiving such payment. The agency or carrier which receives the payment for the domestic ticket or order shall inscribe the tickets or orders for the entire journey in the following manner:

(1) The international ticket or order shall be inscribed or stamped with an appropriate legend (for example, "Cannot be reused to obtain any tax exemption on a domestic ticket or order") to show that a domestic ticket or order has been purchased wholly or partially tax free for use in conjunction therewith.

(2) The domestic ticket or order shall be inscribed to show (i) the identity of the agency or carrier which received payment therefor (unless otherwise shown on the ticket or order), (ii) the origin and destination of the additional transportation, (iii) the identity of the carrier furnishing the additional transportation, and (iv) the serial number of the ticket or order covering such additional trans-

portation. If the domestic ticket or order is not large enough to accommodate the prescribed inscription, a statement setting forth the required information shall be attached to such ticket or order.

§ 49.4261–5 Payments made outside the United States.

(a) *In general.* The tax imposed by section 4261(b) applies to amounts paid outside the United States for the taxable transportation of persons, but only if such transportation begins and ends in the United States. Thus, in addition to the exclusion provided for certain travel under section 4262(b), the tax imposed by section 4261(b) shall not apply unless the transportation both begins and ends within the United States. Accordingly, the tax does not apply to a payment made outside the United States for one-way or round-trip transportation between a point within the United States and a point outside the United States.

(b) *Transportation between two or more points in the United States.* (1) For purposes of this section, a payment made outside the United States for transportation between two or more points in the United States is a payment for transportation which begins and ends in the United States, even though additional transportation to or from a point outside the United States is involved in the entire journey, if at the time of making payment for the transportation between two or more points in the United States it is not definitely established, under the rules set forth in § 49.4261–6, that such transportation is purchased for use in making the journey from or to a point outside the United States. The fact that the entire journey includes transportation from or to a point outside the United States is not in itself determinative of the liability for tax.

(2) The following examples illustrate the application of this paragraph:

Example (1). W travels from Havana, Cuba, to New York by way of Miami. He purchases in Havana a steamship ticket for his transportation from Havana to Miami and an exchange order for air transportation from Miami to New York. The ticket for the connecting transportation from Havana to Miami, and the order for the transportation from Miami to New York were not appropriately inscribed by the agency or carrier which received the payment for the air transportation involved at the time such payment was received so as to clearly show that the ticket and order were purchased for use in conjunction with each other. Therefore, the agency or carrier which accepts the exchange order and issues the ticket for the transportation from Miami to New York is required to collect the tax which applies to the amount paid outside the United States for such transportation.

Example (2). X travels on a round trip from Montreal, Canada, to Los Angeles by way of New York. He purchases in Montreal air transportation for the round trip between New York and Los Angeles, and uses a private automobile for transportation from Montreal to New York and return to Montreal. The amount paid in Montreal for the round-trip transportation between New York and Los Angeles is a payment for transportation which begins and ends in the United States and is therefore subject to tax.

(c) *Cross reference.* See section 4262(b) and § 49.4262(b)–1 for a partial exclusion with respect to amounts paid for certain transportation.

§ 49.4261–6 Payments made outside the United States; evidence of nontaxability.

(a) *In general.* The tax does not apply to a payment made outside the United States for transportation which begins or ends outside the United States. For purposes of the preceding sentence, a payment made outside the United States for transportation between two or more points within the United States (such transportation being referred to hereinafter in this section as "the United States portion"), which is part of transportation from or to a point outside the United States is a payment for transportation which begins or ends outside the United States, where it is definitely established at the time of making payment for the United States portion that such portion is purchased for use in making the journey from or to a point outside the United States. The nontaxable character of the payment made outside the United States for the United States portion shall be established under the rules set forth in paragraphs (b) through (e) of this section.

(b) *Through tickets.* Where one ticket (commonly known as a "through ticket") is issued to cover all of the United States portion of a journey which begins or ends outside the United States and to cover also the connecting transportation from or to a point outside the United States, no further evidence of the nontaxable character of the transportation covered by such ticket will be required.

(c) *Separate tickets.* Where separate tickets or orders are issued for the United States portion of a journey which begins or ends outside the United States, the agency or carrier which receives payment for such tickets or orders shall definitely determine at the time of receiving the payment that the United States portion is being purchased for use in conjunction with connecting transportation from or to a point outside the United States, and shall appropriately inscribe the tickets or orders issued outside the United States for the United States portion and for the connecting transportation from or to a point outside the United States to show clearly that such tickets or orders are purchased for use in conjunction with each other. Such tickets or orders shall be inscribed in the following manner:

(1) The ticket or order for the connecting transportation from or to a point outside the United States shall be inscribed or stamped with an appropriate legend (for example, "Not to be used again for purchase of tax-free United States transportation") to show that the United States portion has been purchased tax free for use in conjunction therewith.

(2) Where the ticket for the United States portion is issued outside the United States, it shall be inscribed to show (i) the identity of the agency or carrier which received payment therefor (unless otherwise shown on the ticket), (ii) the origin and destination of the connecting transportation, (iii) the identity of the carrier furnishing the connecting transportation, and (iv) the serial number of the ticket or order covering such connecting transportation. If the ticket is not large enough to accommodate the prescribed inscription, a statement setting forth the required information shall be attached to such ticket.

(3) Where an order for the United States portion is issued outside the United States, it shall be inscribed to show (i) the origin and destination of the connecting transportation, (ii) the identity of the carrier furnishing the connecting transportation, and (iii) the serial number of the ticket or order covering such connecting transportation.

(d) *Ticket issued pursuant to inscribed order.* Where the ticket for the United States portion is issued in the United States pursuant to an order which was purchased and properly inscribed outside the United States under the rules set forth in paragraph (c)(3) of this section, liability for payment or collection of tax will not be incurred upon the issuance of the ticket provided the agency or carrier issuing such ticket stamps or inscribes thereon an appropriate legend, for example, "Tax not paid—furnished on order", or "Exempt—order".

(e) *Maintenance of records.* In any case where a payment for the United States portion is not subject to tax under the rules set forth in this section, the carrier furnishing transportation for the United States portion shall procure and maintain appropriate evidence which will clearly show that the tickets or orders for such transportation were purchased for use in conjunction with connecting transportation from or to a point outside the United States.

(f) *Examples.* The following are examples of nontaxable transportation:

Example (1). Y travels from London, England, to San Francisco by way of New York. He purchases from an agency or carrier in England all of the transportation involved in such journey, which includes air transportation from London to New York and from New York to San Francisco, for which separate tickets are issued. The agency or carrier which receives the payment for Y's transportation from New York to San Francisco will not be required to collect tax with respect to the payment, provided it determines at the time such payment is received that the transportation in question is being purchased for use in conjunction with the connecting transportation from London to New York and it appropriately inscribes both of the tickets for the journey.

Example (2). Z travels from Havana, Cuba, to New York by way of Miami. He purchases in Havana a ticket for his transportation by water from Havana to Miami, and later purchases from a travel agency in Havana air transportation from Miami to New York for which the travel agency issues an exchange order. To establish the nontaxable character of the payment for Z's transportation from Miami to New York the travel agency shall determine at the time payment is received by it that the transportation is being purchased for use in conjunction with the connecting transportation from Havana to Miami, and shall make the appropriate inscription on the ticket and

the order. The carrier which accepts the exchange order and issues the ticket for the transportation from Miami to New York will not be required to collect tax with respect to the ticket so issued if it appropriately inscribes the ticket as provided in paragraph (d) of this section.

§ 49.4261–7 Examples of payments subject to tax.

The following are examples of payments for transportation which, unless otherwise exempt under section 4263, 4292, 4293, or 4294 are subject to tax:

(a) *Cash fares.* The tax applies to payments of so-called "cash fares" where no ticket or other evidence of the right to transportation is issued to the passenger.

(b) *Scrip books.* The tax applies to the amounts paid for scrip books. The tax shall be collected from the purchaser at the time the scrip book is sold, and not when and as the scrip is used for transportation.

(c) *Additional charges.* Amounts paid as additional charges for changing the class of accommodations, changing the destination or route, extending the time limit of a ticket, as "extra fare", or for exclusive occupancy of a section, etc., are subject to the tax.

(d) *Round-trip tickets.* An amount of 61 cents or more paid for a round-trip ticket is taxable (1) if the one-way fare of like class is 61 cents or more, or (2) if there is no established one-way fare of like class.

(e) *Commutation or season tickets.* (1) Amounts paid for commutation or season tickets good for more than one month are subject to tax where the single trip is 30 miles or more. For this purpose the term "30 miles" means 30 constructive miles where the rate for transportation is fixed on the constructive mileage. The tax shall be collected from the purchaser at the time of payment for the commutation or season ticket, and not when and as the ticket is used for transportation.

(2) In the event that a partly used exempt commutation or season ticket is redeemed and the carrier, in determining the amount of the refund, makes a charge at regular rates for the used portion of the ticket, the tax applies to such charge, if the one-way fare is more than 60 cents.

(f) *Prepaid orders, exchange orders, or similar orders.* The tax applies to the amounts paid for prepaid orders, exchange orders, or similar orders for transportation. Additional amounts paid in procuring transportation in connection with the use of prepaid orders, exchange orders, or similar orders, are likewise subject to tax.

(g) *Combinations of rail, motor vehicle, water, or air transportation.* The tax applies to the total amount paid for transportation over the lines of a number of connecting carriers; and also to the total amount paid for any combination of rail, motor vehicle, water, or air transportation, such as rail-air line, air line-motor bus, or motor bus-steamship, etc.

(h) *Chartered conveyances.* (1) An amount paid for the charter of a special car, train, motor vehicle, aircraft or boat for transportation purposes, provided no charge is made by the charterer to the persons transported is subject to tax if the amount paid for the charter represents a per capita charge of more than 60 cents for each person actually transported. For the exemption of amounts paid for transportation of persons on boats chartered for fishing purposes, see § 49.4263(c)–1.

(2) The charterer of a conveyance who sells transportation to other persons must collect and account for the tax with respect to all amounts paid to him for transportation which are in excess of 60 cents. In such case, no tax will be due on the amount paid for the charter of the conveyance but it shall be the duty of the owner of the conveyance to advise the charterer of his liability for collecting and accounting for the tax.

(i) *All-expense tours.* Amounts paid for all-expense tours are subject to tax with respect to that portion representing taxable transportation. See paragraph (d) of § 49.4261–2 and paragraph (f) (4) of § 49.4261–8.

(j) *Payments remitted to foreign countries by persons in the United States.* Payments for transportation tickets, prepaid orders, exchange orders, or similar orders are subject to the tax where the payment for such tickets or orders is accomplished by the purchaser either (1) by transmission from within the United States via telegraph or mail of cash, checks, postal or telegraphic money orders, and similar drafts to ticket offices or travel agencies, etc., located in any place without the United States, or (2) by the delivery of the funds to an agency located in the United States for transmission to ticket offices, or travel agencies, etc., without the United States. Such payments are considered to be payments made within the United States.

§ 49.4261–8 Examples of payments not subject to tax.

In addition to a payment specifically exempt under section 4263, 4292, 4293, or 4294 the following are examples of payments not subject to tax:

(a) *Exchange of prepaid order, scrip, etc., for tickets.* A ticket issued pursuant to an exchange order, prepaid order, airline pilot order, or scrip, is not subject to tax where the tax is paid at the time of payment for the order or scrip.

(b) *Caretakers and messengers accompanying freight shipments.* The tax on the transportation of persons does not apply to amounts paid for transportation of freight that includes also the transportation of caretakers or messengers for which no specific charge as such is made.

(c) *Special baggage cars.* An amount paid for a special baggage car is not subject to the tax on the transportation of persons if separable from the payment for transportation of persons and if shown in the exact amount of the charge on the records covering the taxable transportation payment.

(d) *Circus or show trains.* The amount paid pursuant to a contract for the movement of a circus or show train where the amount covers only the transportation of the performers, laborers, animals, equipment, etc., by the circus or show train is not subject to the tax on the transportation of persons imposed by section 4261. However, if the contract payment also covers the issuance to advance agents, bill posters, etc., of circus or show scrip books, or other evidence of the right to transportation, for use on regular passenger trains, that portion of the contract payment properly allocable to such scrip books or other evidence is subject to the tax on the transportation of persons.

(e) *Corpses.* The tax on the transportation of persons does not apply to the amount paid for the transportation of a corpse, but does apply to the amount paid for the transportation of any person accompanying the corpse.

(f) *Miscellaneous charges.* Where the charge is separable from the payment for the transportation of a person and is shown in the exact amount thereof on the records pertaining to the transportation payment, the tax on the transportation of persons does not apply to the following and similar charges:

(1) Charges for transportation of baggage, including incidental charges such as excess value, storage, transfer, parcel checking, special delivery, etc.

(2) Charges for transportation of an automobile in connection with the transportation of a person.

(3) Charges for bridge or road toll, or a ferry charge of 60 cents or less, made in connection with the transportation of a person by bus. Charges incurred by the carrier which are part of its costs of operation, such as bridge tolls, road tolls, or ferry charges, paid by the carrier on account of the bus and driver, cannot be deducted from the charge made to the passenger in determining the taxable charges for transportation.

(4) Charges for admissions, guides, meals, hotel accommodations, and other nontransportation services, for example, where such items are included in a lump sum payment for an all-expense tour.

(5) Charges in connection with the charter of a land, water, or air conveyance for the transportation of persons, such as for parking, icing, sanitation, "layover" or "waiting time", movement of equipment in deadhead service, dockage, wharfage, etc.

§ 49.4261–9 Seats and berths; rate and application of tax.

(a) *Imposition of tax.* Section 4261 (c) imposes a tax at a prescribed rate upon payments of any amount for seating or sleeping accommodations in connection with transportation with respect to which a tax is imposed by section 4261 (a) or (b).

(b) *Rate of tax.* The tax is imposed under section 4261(c) upon the amount paid for taxable seating or sleeping accommodations at the rate applicable on the date on which payment for the accomodations is made as specified below:

	Percent
(1) With respect to amounts paid before July 1, 1960	10
(2) With respect to amounts paid on or after July 1, 1960	5

(c) *Application of other rules to seats and berths.* The rules and provisions of

§§ 49.4261–1 to 49.4261–6, inclusive, with respect to the tax on payments for transportation imposed by section 4261 (a) or (b) are also applicable to the tax on payments for seating or sleeping accommodations.

§ 49.4261–10 By whom paid.

The tax imposed by section 4261 is payable by the person making the taxable payment for transportation or for seats, berths, etc., and is collectible by the person receiving such payment. See section 4264 (a) and (c) for special rules relating to payment and collection of tax.

§ 49.4262(a) Statutory provisions; definition of taxable transportation; taxable transportation; in general.

SEC. 4262. *Definition of taxable transportation*—(a) *Taxable transportation; in general.* For purposes of this part, except as provided in subsection (b), the term "taxable transportation" means—

(1) Transportation which begins in the United States or in the 225-mile zone and ends in the United States or in the 225-mile zone; and

(2) In the case of transportation other than transportation described in paragraph (1), that portion of such transportation which is directly or indirectly from one port or station in the United States to another port or station in the United States.

[Sec. 4262(a) as added and in effect Jan. 1, 1959]

§ 49.4262(a)–1 Taxable transportation.

(a) *In general.* Unless excluded under section 4262(b) (see § 49.4262(b)–1), taxable transportation means—

(1) Transportation which begins in the United States or in that portion of Canada or Mexico which is not more than 225 miles from the nearest point in the continental United States (the "225-mile zone") and ends in the United States or in the 225-mile zone; and

(2) In the case of any other transportation, that portion of such transportation which is directly or indirectly from one port or station in the United States to another port or station in the United States. Transportation from one port or station in the United States to another port or station in the United States occurs whenever a carrier, after leaving any port or station in the United States, makes a regularly scheduled stop at another port or station in the United States irrespective of whether stop-overs are permitted or whether passengers disembark.

(b) *Illustrations of taxable transportation under section 4262(a)(1).* In each of the following examples the transportation is taxable transportation and the amount paid within the United States for such transportation is subject to the tax:

(1) New York to Seattle;

(2) New York to Vancouver, Canada, with a stop at Jasper, Canada;

(3) Chicago to Monterrey, Mexico;

(4) Montreal, Canada, to Toronto, Canada; and

(5) Miami to Los Angeles via Panama.

If in the examples in subparagraphs (1) and (5) of this paragraph, payment for the transportation had been made outside the United States, such payment would nevertheless have been subject to tax since in each case the transportation begins and ends in the United States.

(c) *Illustrations of taxable transportation under section 4262(a)(2).* The following examples will illustrate the application of section 4262(a)(2):

Example (1). A purchases in New York a round-trip ticket for transportation by air from New York to Havana, Cuba, with a stop at Miami. The amount paid for that part of the transportation between New York and Miami on both going and return trips is subject to tax, since such transportation is from one station in the United States to another station in the United States.

Example (2). B purchases a ticket in San Francisco for combination rail and water transportation from San Francisco to New York to Halifax, Canada, to London, England. The amount paid for that part of the transportation between San Francisco and New York is subject to tax, since such transportation is from one station in the United States to another station in the United States. Although Halifax is in the 225-mile zone, the transportation between New York and Halifax is not taxable because it is not transportation from one port in the United States to another port in the United States.

Example (3). C purchases a ticket in Seattle for transportation from Seattle to Lisbon, Portugal, with stops at Vancouver, Edmonton, and Montreal, Canada, and New York. The amount paid for that part of the transportation from Seattle to New York is subject to tax, since it is indirectly from one station in the United States to another station in the United States.

Example (4). E purchases in Chicago a ticket for transportation by air from Chicago to New York to Gander, Newfoundland, to London, England. Only the amount paid for that part of the transportation between Chicago and New York is subject to tax. If, while on the New York-Gander leg of the journey the aircraft is forced to land at Boston, because of weather or other emergency, no tax is imposed by reason of such emergency stop.

Example (5). G charters a plane in New York for transportation to Bogota, Colombia, and pays the charter charges in New York. The plane stops at an airport in Miami for refueling in accordance with its flight plan. The tax attaches with respect to that part of the transportation which is between New York and Miami.

(d) *Illustrations of transportation which is not taxable transportation.* The following examples will illustrate transportation which is not taxable transportation:

(1) New York to Trinidad by water with no stops in the United States;

(2) Minneapolis to Edmonton, Canada, with a stop at Winnipeg, Canada; and

(3) Los Angeles to Mexico City, Mexico, with stops at Tia Juana and Guadalajara, Mexico.

Amounts paid for the transportation referred to in the examples in this paragraph are not subject to the tax regardless of where payment is made, since none of the trips (i) begin in the United States or in the 225-mile zone and end in the United States or in the 225-mile zone, nor (ii) contains a portion of transportation which is directly or indirectly from one port or station in the United States to another port or station in the United States.

§ 49.4262(b) Statutory provisions; exclusion of certain travel.

SEC. 4262. *Definition of taxable transportation.* * * *

(b) Exclusion of certain travel. For purposes of this part, the term "taxable transportation" does not include that portion of any transportation which meets all 4 of the following requirements:

(1) Such portion is outside the United States;

(2) Neither such portion nor any segment thereof is directly or indirectly—

(A) Between (i) a point where the route of the transportation leaves or enters the continental United States, or (ii) a port or station in the 225-mile zone, and

(B) A port or station in the 225-mile zone;

(3) Such portion—

(A) Begins at either (i) the point where the route of the transportation leaves the United States, or (ii) a port or station in the 225-mile zone, and

(B) Ends at either (i) the point where the route of the transportation enters the United States, or (ii) a port or station in the 225-mile zone; and

(4) A direct line from the point (or the port or station) specified in paragraph (3)(A), to the point (or the port or station) specified in paragraph (3)(B), passes through or over a point which is not within 225 miles of the United States.

[Sec. 4262(b) as added and in effect Jan. 1 1959]

§ 49.4262(b)–1 Exclusion of certain travel.

(a) *In general.* Under section 4262(b) taxable transportation does not include that portion of any transportation which meets all four of the following requirements:

(1) Such portion is outside the United States;

(2) Neither such portion nor any segment thereof is directly or indirectly—

(i) Between (*a*) a point where the route of the transportation leaves or enters the continental United States, or (*b*) a port or station in the 225-mile zone, and

(ii) A port or station in the 225-mile zone;

(3) Such portion—

(i) Begins at either (*a*) the point where the route of the transportation leaves the United States, or (*b*) a port or station in the 225-mile zone, and

(ii) Ends at either (*a*) the point where the route of the transportation enters the United States, or (*b*) a port or station in the 225-mile zone; and

(4) A direct line from the point (or the port or station) specified in subparagraph (3)(i) of this paragraph, to the point (or the port or station) specified in subparagraph (3)(ii) of this paragraph, passes through or over a point which is not within 225 miles of the United States. For purposes of this section, the route of the transportation shall be deemed to leave or enter the United States when it passes over (i) the international boundary line between any part of the United States and a contiguous foreign country, or (ii) a point three nautical miles (3.45 statute miles) from low tide on the coast line.

(b) *Transportation to or from Alaska or Hawaii.* (1) Under the provisions of

section 4262(b) transportation between the continental United States or the 225-mile zone and Alaska or Hawaii will be partially exempt from the tax. The portion of such transportation which (i) is outside the United States, (ii) is not transportation between ports or stations within the continental United States or the 225-mile zone, and (iii) is not transportation between ports or stations within Alaska or Hawaii, meets all the requirements set forth in section 4262(b) and is excluded from taxable transportation.

(2) The provisions of subparagraph (1) of this paragraph may be illustrated by the following examples:

Example (1). A buys a ticket for transportation by air from Seattle to Fairbanks, Alaska, via Ketchikan and Juneau, Alaska, and Whitehorse, Yukon Territory, Canada. The portion of the transportation between the point where the route of the transportation leaves the continental United States and the point where it first enters Alaska (the three-mile limit or the international boundary) is not subject to tax.

Example (2). B purchased combination rail-water transportation from Chicago to Juneau, Alaska, by way of Vancouver, Canada. The portion of the transportation from Vancouver to the point where the route of the transportation enters the three-mile limit off the coast of Alaska is not subject to tax.

Example (3). C purchases a ticket in the United States for transportation by air from Vancouver, Canada, to Honolulu, Hawaii. No part of the route followed by the carrier passes through or over any part of the continental United States. The only part of the payment made by C for this transportation which is subject to the tax is that applicable to the portion of the transportation between the three-mile limit off the coast of Hawaii and the airport in Honolulu.

(c) *Method of computing tax on travel not excluded.* (1) Where a payment is made for transportation which includes transportation excluded under the provisions of section 4262(b)—

(i) The tax may be computed on that proportion of the total amount paid which the mileage of the taxable portion of the transportation bears to the mileage of the entire trip, or

(ii) If the taxable portion of the transportation includes transportation from one port or station to another port or station for which an applicable local fare of a like class is available, the tax may be computed on the amount of such local fare, plus an amount equivalent to that proportion of the remainder of the total amount paid which the mileage of the remainder of the taxable portion of the transportation bears to the remainder of the mileage of the entire trip. If the taxable transportation includes a leg from a station to a coastal gateway point of embarkation for which a uniform fare is charged regardless of the gateway point actually used, the tax on such a leg may be computed on the basis of such uniform fare. In the absence of a fare described in this subparagraph, the tax must be determined in accordance with subdivision (i) of this subparagraph. If the taxable portion of the transportation includes a leg between coastal gateway points of embarkation for which no additional fare is charged, no tax shall be applicable to such leg of the transportation.

(2) The basis for determining the proportions described in subdivisions (i) and (ii) of subparagraph (1) of this paragraph shall be the average mileage of the established route traveled by the carrier between given points under normal circumstances.

(d) *Illustration.* The application of paragraph (c) of this section may be illustrated by the following example:

Example. On October 10, 1959, A purchases in San Francisco a ticket for transportation by air to Honolulu, Hawaii. The portion of the transportation which is outside the continental United States and is outside Hawaii is excluded from taxable transportation. The tax applies to that part of the payment made by A which is applicable to the portion of the transportation between the airport in San Francisco and the three-mile limit off the coast of California (a distance of 15 miles) and between the three-mile limit off the coast of Hawaii and the airport in Honolulu (a distance of 5 miles). The part of the payment made by A which is applicable to the taxable portion of his transportation and the tax due thereon are computed in accordance with paragraph (c)(1) as follows:

Mileage of entire trip (San Francisco airport to Honolulu airport) ----------miles--	2,400
Mileage in continental United States ----------miles-- 15	
Mileage in Hawaii------miles-- 5	
	20
Fare from San Francisco to Honolulu	$168.00
Payment for taxable portion (20/2400 x $168) ----------	$1.40
Tax due (10% (rate in effect on date of payment) x $1.40) ----------	$0.14

(All distances and fare assumed for purposes of this example.)

§ 49.4262(c) Statutory provisions; definitions; continental United States; 225-mile zone.

SEC. 4262. *Definition of taxable transportation.* * * *

(c) *Definitions.* For purposes of this section—

(1) *Continental United States.* The term "continental United States" means the District of Columbia and the States other than Alaska.

(2) *225-mile zone.* The term "225-mile zone" means that portion of Canada and Mexico which is not more than 225 miles from the nearest point in the continental United States.

[Sec. 4262(c) as added and in effect Jan. 1, 1959 and as further amended by sec. 22(b), Alaska Omnibus Act (73 Stat. 146)]

§ 49.4262(c)–1 Definitions.

(a) *The continental United States.* For purposes of the regulations in this subpart, the term "continental United States" includes only the 48 States existing on July 25, 1956 (the date of the enactment of the Act of July 25, 1956 (Pub. Law 796, 84th Cong., 70 Stat. 644)) and the District of Columbia, including inland waters (such as rivers, lakes, bays, etc.) lying wholly therein, and, where an international boundary line divides inland waters, such parts of such inland waters as lie within the boundary of the United States, and also the waters 3 nautical miles (3.45 statute miles) from low tide on the coast line. For purposes of the regulations in this subpart, the term "continental United States" does not include Alaska or Hawaii for any period either prior or subsequent to their admission into the Union as States.

(b) *The 225-mile zone.* For purposes of the regulations in this subpart, the term "225-mile zone" means that portion of Canada and Mexico which is not more than 225 miles from the nearest point in the continental United States. Whether any point in Canada or Mexico is more than 225 miles from the continental United States is to be determined by measuring the distance from such point to the nearest point on the boundary of the continental United States.

§ 49.4263(a) Statutory provisions; exemptions; commutation travel; etc.

SEC. 4263. *Exemptions*—(a) *Commutation travel, etc.* The tax imposed by section 4261 shall not apply to amounts paid for transportation which do not exceed 60 cents, to amounts paid for commutation or season tickets for single trips of less than 30 miles, or to amounts paid for commutation tickets for one month or less.

[Sec. 4263(a) as so redesignated and as amended and in effect Jan. 1, 1959]

§ 49.4263(a)–1 Commutation tickets.

(a) *Tickets for single trips of less than 30 miles.* Amounts paid for commutation or season tickets or books for single trips of less than 30 miles are exempt from the tax imposed by section 4261, regardless of the length of time for which such tickets or books are valid. The phrase "less than 30 miles" means less than 30 constructive miles in instances where the charge is based on constructive mileage.

(b) *Tickets for one month or less.* Amounts paid for commutation tickets or books for one month or less are exempt from the tax regardless of the distance of a single trip.

§ 49.4263(a)–2 Charges not exceeding 60 cents.

(a) *In general.* The tax imposed by section 4261 does not apply to transportation payments of 60 cents or less.

(b) *Round trips.* The exemption is determined by the amount paid for a single one-way trip. Thus, an amount of more than 60 cents paid for round-trip transportation is exempt from the tax, if the regular one-way single fare of like class between the terminal points of the round trip does not exceed 60 cents.

(c) *Charters.* An amount paid for the charter of a car, train, motor vehicle, aircraft, or boat is exempt from the tax, if the payment represents a per capita charge of 60 cents or less for each person actually transported.

(d) *Seating or sleeping accommodations.* Any amount paid for seating or sleeping accommodations is not subject to tax under section 4261(c) where the amount of the related payment for transportation is 60 cents or less. However, where the payment for transportation exceeds 60 cents, a payment for seating or sleeping accommodations in connection with such transportation is subject to the tax regardless of the amount thereof.

§ 49.4263(b) Statutory provisions; exemptions; small vehicles on nonestablished lines.

SEC. 4263. *Exemptions.* * * *

(b) *Small vehicles on nonestablished lines.* The tax imposed by section 4261 shall not apply to transportation by motor vehicles having a passenger seating capacity of less than ten adult passengers, including the driver, except when such vehicle is operated on an established line.

[Sec. 4263(b) as so redesignated and in effect Jan. 1, 1959]

§ 49.4263(b)–1 Motor vehicles with seating capacity of less than ten.

No tax is imposed under section 4261 on transportation by a motor vehicle having a seating capacity of less than ten adult passengers, including the driver, unless such vehicle is operated on an established line. The term "operated on an established line" means operated with some degree of regularity between definite points. It does not necessarily mean that strict regularity of schedule is maintained; that the full run is always made; that a particular route is followed; or that intermediate stops are restricted. The term implies that the person rendering the service maintains and exercises control over the direction, route, time, number of passengers carried, etc.

§ 49.4263(c) Statutory provisions; exemptions; fishing trips.

SEC. 4263. *Exemptions.* * * *

(c) *Fishing trips.* The tax imposed by section 4261 shall not apply to amounts paid for transportation by boat for the purpose of fishing from such boat.

[Sec. 4263(c) as so redesignated and in effect Jan. 1, 1959]

§ 49.4263(c)–1 Fishing trips.

No tax is imposed under section 4261 upon any amount paid for transportation by boat where the transportation is for the purpose of fishing from such boat.

§ 49.4263(d) Statutory provisions; exemptions; certain organizations.

SEC. 4263. *Exemptions.* * * *

(d) *Certain organizations.* The tax imposed by section 4261 shall not apply to the payment for transportation or facilities furnished to an international organization, or any corporation created by act of Congress to act in matters of relief under the treaty of Geneva of August 22, 1864.

[Sec. 4263(d) as so redesignated and in effect Jan. 1, 1959]

§ 49.4263(d)–1 Transportation furnished to certain organizations.

(a) *The American National Red Cross.* The tax imposed by section 4261 does not apply to amounts paid for transportation or facilities furnished to any corporation created by act of Congress to act in matters of relief under the treaty of Geneva of August 22, 1864 (The American National Red Cross).

(b) *International organizations.* The tax imposed by section 4261 does not apply to amounts paid for transportation or facilities furnished to an international organization. See section 7701(a)(18) for the definition of "international organization". An international organization is designated as such by the President through an Executive order or orders. When an organization has been designated by the President as entitled to enjoy the privileges, exemptions and immunities conferred by the International Organizations Immunities Act, or part thereof, including exemption from the tax, the exemption applies to amounts so paid unless the President otherwise provides. The exemption is subject to withdrawal or revocation by the President. In case of withdrawal or revocation, unless otherwise provided by the President, the exemption is inapplicable to payments on or after the date of issuance of the order of withdrawal or the date of revocation.

(c) *Evidence of right to exemption.* The right to exemption under section 4263(d) shall be established by the use of exemption certificate, Form 731. See section 4292 and the regulations thereunder for the rules applicable when the right to exemption is evidenced by exemption certificates.

§ 49.4263(e) Statutory provisions; exemptions; members of the armed forces.

SEC. 4263. *Exemptions.* * * *

(e) *Members of the armed forces.* The tax imposed by section 4261 shall not apply to the payment for transportation or facilities furnished under special tariffs providing for fares of not more than 2.5 cents per mile applicable to round-trip tickets sold to personnel of the United States Army, Air Force, Navy, Marine Corps, and Coast Guard traveling in uniform of the United States at their own expense when on official leave, furlough, or pass, including authorized cadets and midshipmen, issued on presentation of properly executed certificate.

[Sec. 4263(e) as so redesignated and in effect Jan. 1, 1959]

§ 49.4263(e)–1 Members of the armed forces.

The tax imposed by section 4261 does not apply to amounts paid for transportation or for seating or sleeping accommodations furnished under special tariffs providing for fares of not more than 2.5 cents per mile applicable to round-trip tickets sold to personnel of the United States Army, Air Force, Navy, Marine Corps, and Coast Guard, including authorized cadets and midshipmen, traveling in uniform of the United States at their own expense when on official leave, furlough, or pass. A person claiming exemption under this section will be required to exhibit to the agent of the carrier a properly executed certificate to show that he is traveling on official leave, furlough, or pass, but the submission of an exemption certificate on Form 731 is not necessary in such case.

§ 49.4263(f) Statutory provisions; exemptions; small aircraft on nonestablished lines.

SEC. 4263. *Exemptions.* * * *

(f) *Small aircraft on nonestablished lines.* The tax imposed section 4261 shall not apply to transportation by aircraft having—

(1) A gross takeoff weight (as determined under regulations prescribed by the Secretary or his delegate) of less than 12,500 pounds, and

(2) A passenger seating capacity of less than 10 adult passengers, including the pilot, except when such aircraft is operated on an established line.

[Sec. 4263(f) as added and in effect Jan. 1, 1959]

§ 49.4263(f)–1 Small aircraft on nonestablished lines.

(a) *In general.* Amounts paid for the transportation of persons on a small aircraft of the type sometimes referred to as "air taxis" shall be exempt from the tax imposed under section 4261 provided the aircraft (1) has a gross take-off weight of less than 12,500 pounds determined as provided in paragraph (b) of this section and (2) has a passenger seating capacity of less than 10 adult passengers, including the pilot. The exemption does not apply, however, if the aircraft is operated on an established line.

(b) *Determination of gross take-off weight.* The term "gross take-off weight of less than 12,500 pounds" means a maximum certificated take-off weight of less than 12,500 pounds. This shall be based on the maximum certificated take-off weight shown in the aircraft operating record or aircraft flight manual which is part of the air worthiness certificate issued by the Federal Aviation Agency.

(c) *Established line.* The term "operated on an established line" means operated with some degree of regularity between definite points. It does not necessarily mean that strict regularity of schedule is maintained; that the full run is always made; that a particular route is followed; or that intermediate stops are restricted. The term implies that the person rendering the service maintains and exercises control over the direction, route, time, number of passengers carried, etc.

§ 49.4264(a) Statutory provisions; special rules; payments made outside the United States for prepaid orders.

SEC. 4264. *Special rules*—(a) *Payments made outside the United States for prepaid orders.* If the payment upon which tax is imposed by section 4261 is made outside the United States for a prepaid order, exchange order, or similar order, the person furnishing the initial transportation pursuant to such order shall collect the amount of the tax.

[Sec. 4264(a) as added and in effect Jan. 1, 1959]

§ 49.4264(a)–1 Duty to collect the tax; payments made outside the United States.

Where payment is made outside the United States for a prepaid order, exchange order, or similar order for transportation which begins and ends in the United States or for seating or sleeping accommodations in connection therewith, the person furnishing the initial transportation pursuant to such order shall collect all the tax applicable to such transportation or accommodations. See section 4291 and the regulations thereunder for cases where persons receiving payment must collect the tax.

§ 49.4264(b) Statutory provisions; special rules; tax deducted upon refunds.

SEC. 4264. *Special rules.* * * *

(b) *Tax deducted upon refunds.* Every person who refunds any amount with re-

spect to a ticket or order which was purchased without payment of the tax imposed by section 4261, shall deduct from the amount refundable, to the extent available, any tax due under such section as a result of the use of a portion of the transportation purchased in connection with such ticket or order, and shall report to the Secretary or his delegate the amount of any such tax remaining uncollected.

[Sec. 4264(b) as added and in effect Jan. 1, 1959]

§ 49.4264(b)–1 Duty to collect the tax in the case of certain refunds.

(a) *Special rule for collection of tax.* Section 4264(b) provides a special rule for the collection of the tax where an unused ticket or order (or portion thereof) purchased without payment of tax is presented for refund and, as a result of the use of only a portion of the transportation purchased in connection with such ticket or order, liability for payment of tax has been incurred. In such a case, the person making the refund shall deduct the amount of the tax due, to the extent available, from the amount which would otherwise be refundable. If the redemption value of the unused ticket or order (or portion thereof) is less than the amount of the tax due on the amount paid for the travel actually performed, the person redeeming the unused ticket or order (or portion thereof) shall make no refund but shall apply the entire amount against the tax due and shall collect any additional tax due or, within 90 days, shall make a report of the amount of the tax remaining uncollected, together with the name and address of the person who sought the refund. The report shall be made to the office of the district director of internal revenue for the district in which the person making such report is located, and a copy of the report shall be furnished to the person presenting the unused ticket or order for redemption.

(b) *Return of tax.* Any person who has made a collection of tax in accordance with the preceding paragraph shall include such amount in his regular return of taxes required to be collected under section 4291.

(c) *Illustration.* A carrier receives for redemption a ticket purchased in the United States for transportation from Calgary, Canada, to Edmonton, Canada, which the purchaser bought for use in conjunction with a ticket for nonstop transportation from Seattle to Calgary. The person applying for the refund does not establish to the satisfaction of the carrier that the tax on the Seattle-Calgary ticket has been paid or that the Seattle-Calgary ticket has been redeemed. The carrier, before making any refund for the unused ticket, is required to deduct from the amount otherwise refundable the tax applicable to the amount paid by the purchaser for the transportation from Seattle to Calgary and to report the tax so collected in its quarterly return on Form 720. In the event that the redemption value of the unused Calgary to Edmonton ticket is less than the amount of the tax due on the amount paid for the transportation from Seattle to Calgary, the carrier should not make any refund but should apply against the outstanding tax the entire amount refundable and should either collect the balance of the tax due or make a report, within 90 days, to the office of the district director of internal revenue for the district in which the carrier is located, setting forth the name and address of the person seeking the refund and the amount of the tax remaining uncollected.

§ 49.4264(c) Statutory provisions; special rules; payment of tax.

SEC. 4264. *Special rules.* * * *

(c) *Payment of tax.* Where any tax imposed by section 4261 is not paid at the time payment for transportation is made, then, under regulations prescribed by the Secretary or his delegate, to the extent that such tax is not collected under any other provision of this subchapter—

(1) Such tax shall be paid by the person paying for the transportation or by the person using the transportation;

(2) Such tax shall be paid within such time as the Secretary or his delegate shall prescribe by regulations after whichever of the following first occurs:

(A) The rights to the transportation expire; or

(B) The time when the transportation becomes subject to tax; and

(3) Payment of such tax shall be made to the person to whom the payment for transportation was made or to the Secretary or his delegate.

[Sec. 4264(c) as added and in effect Jan. 1, 1959]

§ 49.4264(c)–1 Special rule for the payment of tax.

(a) *Rule.* When any tax imposed by section 4261 is not paid at the time payment for the transportation is made, then to the extent that such tax is not collected under any other provision of law, such tax shall be paid by the person paying for the transportation or by the person using the transportation. The provisions of section 4264(c) apply where the amount paid for transportation is (1) subject to tax at the time such payment is made, but no tax is paid at that time, or (2) not subject to tax at the time such payment is made, but because of some subsequent event the payment becomes subject to tax. The payment of tax shall be made to the district director of internal revenue for the district in which the taxpayer resides, or to the person from whom the transportation was purchased, within 30 days after whichever of the following first occurs: (i) The rights to the transportation expire, or (ii) the transportation becomes subject to tax. Such payment shall be accompanied with an explanation that it is being made in accordance with section 4264(c).

(b) *Relationship to other sections.* Section 4264(c) and this section are not intended in any way to relieve the person receiving the payment for taxable transportation of persons from his duty under section 4291 of collecting the tax at the time such payment is received by him. The provisions of section 4264(c) and this section also do not apply in any case where the tax is collected in the manner provided in section 4264 (a) or (b) or in other provisions of law.

(c) *Illustration.* The provisions of this section may be illustrated by the following example:

Example. A purchases in New York a round-trip ticket for transportation between New York and London, England, with a stopover in Montreal, Canada. After arriving in Montreal A decides not to continue his trip to London and returns to New York. A is liable for tax with respect to the amount paid for his transportation from New York to Montreal and return. A's transportation became taxable transportation at the time he began his return trip to New York, and within 30 days thereafter A must pay the tax to either the person from whom he purchased the ticket or the appropriate district director of internal revenue.

§ 49.4264(d) Statutory provisions; special rules; application of tax.

SEC. 4264. *Special rules.* * * *

(d) *Application of tax.* The tax imposed by section 4261 shall apply to any amount paid within the United States for transportation of any person unless the taxpayer establishes, pursuant to regulations prescribed by the Secretary or his delegate, at the time of payment for the transportation, that the transportation is not transportation in respect of which tax is imposed by section 4261.

[Sec. 4264(d) as added and in effect Jan. 1, 1959]

§ 49.4264(d)–1 Cross reference.

For the rules applicable under section 4264(d) see § 49.4261–4 relating to payments made within the United States.

§ 49.4264(e) Statutory provisions; special rules; round trips.

SEC. 4264. *Special rules.* * * *

(e) *Round trips.* In applying this part to a round trip, such round trip shall be considered to consist of transportation from the point of departure to the destination, and of separate transportation thereafter.

[Sec. 4264(e) as added and in effect Jan. 1, 1959]

§ 49.4264(e)–1 Round trips.

(a) *In general.* For purposes of the regulations in this subpart, a round trip shall be considered to consist of two separate trips, i.e., one trip from the point of departure to the destination and a second trip in returning from the destination. A round trip includes certain journeys in which the same routing is not followed on the return trip from the destination to the point of departure as was taken on the going trip (sometimes referred to as "circle trips"). In the case of a cruise or tour (i.e., transportation to no set destination but with one or more intermediate stops en route) the point farthest from the point of departure will be regarded as the destination for purposes of applying the term "round trip". If a cruise or tour ends at a point other than the one at which it began, the rules of "open jaw" transportation set forth in paragraph (b) of this section apply.

(b) *Open jaw transportation.* Transportation which qualifies under this paragraph as "open jaw" transportation will be treated in the same manner as a round trip. For purposes of the regulations in this subpart, "open jaw" transportation means (1) transportation from the point of departure to a specified des-

tination and return from the specified destination to a point other than the original point of departure, or (2) transportation from the point of departure to a specified destination and return from a point other than the specified destination to the original point of departure, provided that where the points of the open jaw are within the continental United States or the 225-mile zone, the distance between the points of the open jaw does not exceed the distance of the shorter segment traveled. For example, a trip from New York to New Orleans via Panama would be considered as one trip from New York to Panama and separate trip from Panama to New Orleans, since the distance between the points of the open jaw (i.e., New York and New Orleans) is shorter than the distance between Panama and New Orleans (the shorter of the two segments traveled). Both trips would be nontaxable. On the other hand, transportation from New York to Miami via Bermuda does not qualify as "open jaw" transportation (since the points of the open jaw are in the United States and the distance between them is greater than the shorter segment traveled) and therefore would be considered a single trip from New York to Miami and would be taxable.

§ 49.4264(f) Statutory provisions; special rules; transportation outside the northern portion of the Western Hemisphere.

SEC. 4264. *Special rules.* * * *

(f) *Transportation outside the northern portion of the Western Hemisphere.* In applying this part to transportation any part of which is outside the northern portion of the Western Hemisphere—

(1) If the route of such transportation leaves and re-enters the northern portion of the Western Hemisphere, such transportation shall be considered to consist of transportation to a point outside such northern portion, and of separate transportation thereafter.

(2) If such transportation is transportation by water on a vessel which makes one or more intermediate stops at ports within the United States on a voyage which begins or ends in the United States and ends or begins outside the northern portion of the Western Hemisphere, a stop at an intermediate port within the United States at which such vessel is not authorized both to discharge and to take on passengers shall not be considered to be a stop at a port within the United States.

For the purposes of this subsection, the term "northern portion of the Western Hemisphere" means the area lying west of the 30th meridian west of Greenwich, east of the International Date Line, and north of the equator, but not including any country of South America.

[Sec. 4264(f) as added and in effect Jan. 1, 1959]

§ 49.4264(f)–1 Transportation outside the northern portion of the Western Hemisphere.

(a) *Transportation which leaves and re-enters the northern portion of the Western Hemisphere.* For purposes of the regulations in this subpart, transportation, any part of which is outside the northern portion of the Western Hemisphere (as defined in paragraph (c) of this section) shall, if the route of the transportation leaves and re-enters the northern portion of the Western Hemisphere, be considered to consist of transtion to the point outside such northern portion and of separate transportation thereafter. The amount paid for such transportation will be considered to be a payment made for two trips and the taxability of the payment will be determined accordingly. Thus, an amount paid for transportation from New York to San Francisco with a stop at Caracas, Venezuela, will be considered an amount paid for a trip from New York to Caracas and for a separate trip from Caracas to San Francisco, neither of which is taxable transportation.

(b) *Transportation by water on a vessel*—(1) *Special rule.* Section 4264(f)(2) provides a special rule in the case of transportation, any part of which is outside the northern portion of the Western Hemisphere, by water on a vessel which makes one or more intermediate stops at ports within the United States on a voyage which (i) begins or ends in the United States, and (ii) ends or begins outside the northern portion of the Western Hemisphere. In such a case, a stop at an intermediate port within the United States at which such vessel is not authorized both to discharge and to take on passengers shall not be considered to be a stop at a port within the United States. A vessel is considered to be authorized both to discharge and to take on passengers at an intermediate port unless there is a legal or other authoritative prohibition of such traffic. For purposes of the preceding sentence, an order issued by the owner or operator of a vessel prohibiting such vessel from either discharging or taking on passengers at the intermediate port is not a legal or other authoritative prohibition of such traffic.

(2) *Illustrations.* The provisions of this paragraph may be illustrated by the following examples:

Example (1). A purchases a steamship ticket in New York for transportation from New York to Southampton, England. The vessel on which A sails makes an intermediate stop during the course of such voyage at Boston to take on passengers. The vessel is not, however, authorized to discharge passengers at such port. No tax applies to the portion of the transportation between New York and Boston since under section 4264(f)(2) the vessel is not considered to have made a stop at Boston.

Example (2). B purchases a steamship ticket in San Francisco for a voyage from San Francisco to Tokyo, Japan. The vessel on which B travels makes a stop at Honolulu, Hawaii, to discharge passengers. The vessel is also permitted to take on passengers in Honolulu. Since the vessel is permitted both to discharge and take on passengers at the stop in Honolulu, the portion of the transportation between San Francisco and Hawaii not excluded under section 4262(b) (i.e., the portion of such transportation between the pier in San Francisco and the three-mile limit off the coast of California and between the three-mile limit off the coast of Hawaii and the pier in Honolulu) is taxable under section 4262(a)(2) as transportation from one port in the United States to another port in the United States.

(c) *Northern portion of the Western Hemisphere.* For purposes of the regulations in this subpart, the term "northern portion of the Western Hemisphere" means the area lying west of the 30th meridian west of Greenwich, east of the International Date Line, and north of the equator, but not including any country of South America.

Subpart E—Safe Deposit Boxes

§ 49.4286 Statutory provisions; imposition of tax.

SEC. 4286. *Imposition of tax.* There is hereby imposed a tax equivalent to 10 percent of the amount collected for the use of any safe deposit box. Such tax shall be paid by the person paying for the use of the safe deposit box.

[Sec. 4286 as originally enacted and in effect Jan. 1, 1959]

§ 49.4286–1 Imposition of tax.

(a) *In general.* Section 4286 imposes a tax upon amounts collected for the use of safe deposit boxes. When during the term of the contract or agreement for the use of a safe deposit box, such use is relinquished and a new contract or agreement is made for the use of another safe deposit box, additional tax is due upon any further amount collected under the new contract or agreement.

(b) *Rate of tax.* Tax is imposed at the rate of 10 percent of the amount collected for the use of any safe deposit box.

(c) *Liability for tax.* The tax is payable by the person paying for the use of the safe deposit box. Every person receiving payments for the use of a safe deposit box is required under section 4291 to collect the tax from the person paying for such use, and must return and pay over the tax so collected in accordance with the applicable provisions of the regulations contained in Subpart G.

§ 49.4287 Statutory provisions; definition of safe deposit box.

SEC. 4287. *Definition of safe deposit box.* For the purposes of section 4286, any vault, safe, box, or other receptacle, of not more than 40 cubic feet capacity, used for the safekeeping or storage of jewelry, plate, money, specie, bullion, stocks, bonds, securities, valuable papers of any kind, or other valuable personal property, shall be regarded as a safe deposit box.

[Sec. 4287 as originally enacted and in effect Jan. 1, 1959]

§ 49.4287–1 Safe deposit box.

The term "safe deposit box" includes any vault, safe, box, or other receptacle, of not more than 40 cubic feet capacity, such as is customarily leased by a bank, trust company, security dealer, investment company, or storage company, for the safekeeping or storage of jewelry, plate, money, specie, bullion, stocks, bonds, securities, important papers of any kind, or other forms of valuable personal property. The term includes each individual vault, safe, box, or other receptacle, of not more than 40 cubic feet capacity, even though it is leased as one of several adjacent safe deposit boxes with an aggregate capacity of more than 40 cubic feet, and regardless of whether such adjacent safe deposit boxes are enclosed within a vault, enclosure, compartment, etc., to which the lessee has sole access. However, the term "safe deposit box" does not include open space in a general storage vault.

Because this Treasury decision merely (1) sets forth the division and arrangement of regulations relating to the taxes imposed by chapter 33 of the Internal Revenue Code of 1954, as amended, and certain provisions of subtitle F of such Code, and (2) incorporates in Part 49 of the Code of Federal Regulations, without substantial changes other than those required to conform to the amendments made to sections 4261 and 4262 (transportation of persons) of the Internal Revenue Code by section 4 of the Tax Rate Extension Act of 1959 and section 22 of the Alaska Omnibus Act, relating, respectively, to rate of tax and definition of the term "continental United States", the portion of the regulations in Part 42 of the Code of Federal Regulations relating to transportation of persons and safe deposit boxes, it is found that it is unnecessary to issue this Treasury decision with notice and public procedure thereon under section 4(a) of the Administrative Procedure Act, approved June 11, 1946, or subject to the effective date limitation of section 4(c) of said Act.

[SEAL] CHARLES I. FOX,
Acting Commissioner of Internal Revenue.

Approved: November 30, 1959.

FRED C. SCRIBNER, Jr.,
Acting Secretary of the Treasury.

[F.R. Doc. 59-10172; Filed, Dec. 2, 1959; 8:49 a.m.]

Title 49—TRANSPORTATION

Chapter I—Interstate Commerce Commission

SUBCHAPTER B—CARRIERS BY MOTOR VEHICLE

[Ex Parte No. MC-40]

PART 193—PARTS AND ACCESSORIES NECESSARY FOR SAFE OPERATION

Qualifications and Maximum Hours of Service of Employees of Motor Carriers and Safety of Operation and Equipment

At a general session of the Interstate Commerce Commission, held at its office in Washington, D.C., on the 24th day of November A.D. 1959.

Upon consideration of the record in the above-entitled proceeding, of the rules and regulations heretofore prescribed herein, and of the representations filed pursuant to the notice of proposed rule making dated December 1, 1958, (23 F.R. 9608);

It appearing, that the said Commission, on the date hereof, has made and filed its report on further proceedings herein, which report and the prior report, 54 M.C.C. 337, are hereby referred to and made a part hereof:

It is ordered, That § 193.60 *Glazing in specified openings* (49 CFR 193.60) of the Motor Carrier Safety Regulations prescribed by order dated April 14, 1952, as amended, be, and it is hereby amended to read as follows:

§ 193.60 Glazing in specified openings.

(a) *Kind of glass.* Whenever glazing is used in the windshield, window, door, or any other opening into a bus, truck, or truck-tractor, except vehicles engaged in armored car service, such glazing shall conform to the requirements contained in the "American Standard Safety Code for Safety Glazing Materials for Glazing Motor Vehicles Operating on Land Highways, Z26.1 1950" of the American Standards Association, Inc., 70 East 45th Street, New York 17, N.Y.

(b) *Windshield condition.* Every motor vehicle windshield shall be free of discoloration or other damage in that portion thereof extending upward from the height of the topmost portion of the steering wheel, but not including a two inch border at the top and a one inch border at each side of the windshield or each panel thereof, except that discoloration and damage as follows are allowable: (1) Coloring or tinting applied in manufacturing, for reduction of glare; (2) any crack not over ¼ inch wide, if not intersected by any other crack; (3) any damaged area which can be covered by a disc ¾ inch in diameter, if not closer than 3 inches to any other such damaged area.

(c) *Use of vision-reducing matter.* On and after July 1, 1961, no motor vehicle may be operated with any label, sticker, decalcomania, or other vision-reducing matter covering any portion of its windshield or windows at either side of the driver's compartment, except that one sticker indicating compliance with official mechanical inspection requirements by the State in which the title or certificate of ownership is registered may be affixed in a lower corner of the windshield.

(Sec. 204, 49 Stat. 546, as amended, 49 U.S.C. 304)

It is further ordered, That § 193.60 as herein amended shall be effective December 31, 1959;

And it is further ordered, That notice of this order shall be given to motor carriers and the general public by depositing a copy thereof in the office of the Secretary of the Interstate Commerce Commission, Washington, D.C., and by filing a copy thereof with the Director, Office of the Federal Register.

By the Commission.

[SEAL] HAROLD D. McCOY,
Secretary.

[F.R. Doc. 59-10164; Filed, Dec. 2, 1959; 8:48 a.m.]

PROPOSED RULE MAKING

DEPARTMENT OF THE TREASURY

Internal Revenue Service

[26 CFR (1954) Part 48]

RETURN AND PAYMENT OF RETAILERS EXCISE TAX BY SUPPLIERS IN CERTAIN CASES

Notice of Proposed Rule Making

Notice is hereby given, pursuant to the Administrative Procedure Act, approved June 11, 1946, that the regulations set forth in tentative form below are proposed to be prescribed by the Commissioner of Internal Revenue, with the approval of the Secretary of the Treasury or his delegate. Prior to the final adoption of such regulations, consideration will be given to any comments or suggestions pertaining thereto which are submitted in writing, in duplicate, to the Commissioner of Internal Revenue, Attention: T:P, Washington 25, D.C., within the period of 30 days from the date of publication of this notice in the FEDERAL REGISTER. Any person submitting written comments or suggestions who desires an opportunity to comment orally at a public hearing on these proposed regulations should submit his request, in writing, to the Commissioner within the 30-day period. In such a case, a public hearing will be held and notice of the time, place, and date will be published in a subsequent issue of the FEDERAL REGISTER. The proposed regulations are to be issued under the authority contained in section 7805 of the Internal Revenue Code of 1954 (68A Stat. 917; 26 U.S.C. 7805).

[SEAL] DANA LATHAM,
Commissioner of Internal Revenue.

The following regulations, relating to return and payment of retailers excise tax by suppliers in certain cases, are prescribed under section 6011(c) of the Internal Revenue Code of 1954:

§ 48.6011(c) Statutory provisions; return of retailers excise tax by suppliers.

SEC. 6011. *General requirement of return, statement, or list.* * * *

(c) *Return of retailers excise taxes by suppliers*—(1) *General rule.* Under regulations prescribed by the Secretary or his delegate, the Secretary or his delegate may enter into an agreement with any supplier with respect to any retailers excise tax imposed by chapter 31 (not including the taxes imposed by section 4041), whereby such supplier will be liable to return and pay such tax (for the period for which such agreement is in effect) for the person who (without regard to this subsection) is required to return and pay such tax. Except as provided in the regulations prescribed under this subsection—

(A) All provisions of law (including penalties) applicable in respect of the person who (without regard to this subsection) is required to return and pay the tax shall apply to the supplier entering into the agreement, and

(B) The person who (without regard to this subsection) is required to return and pay such tax shall remain subject to all

provisions of law (including penalties) applicable in respect of such person.

(2) *Limitations on agreement authority in the case of house-to-house salesmen.* In the case of sales, by house-to-house salesmen, of articles subject to tax under chapter 31 (other than section 4041) which are supplied by a manufacturer or distributor, if the manufacturer or distributor establishes the retail list price at which such articles are to be sold, the Secretary or his delegate shall not, as a condition to entering into an agreement under paragraph (1), require—

(A) That such house-to-house salesmen execute powers of attorney making such manufacturer or distributor an agent for the return and payment of such tax,

(B) That the manufacturer or distributor make separate returns with respect to each such house-to-house salesman, or

(C) That the manufacturer or distributor assume any liability for tax on articles supplied by any person other than such manufacturer or distributor.

[Sec. 6011(c) as amended and in effect Jan. 1, 1959]

§ 48.6011(c)–1 Return and payment of retailers excise taxes by suppliers.

(a) *In general.* (1) To the extent authorized in subparagraph (2) of this paragraph, the district director, if he is satisfied that the collection of retailers excise tax will not be adversely affected and that administrative difficulties will not ensue, may enter into an agreement with a supplier with respect to any retailers excise tax imposed by chapter 31 of the Code (other than a tax imposed by section 4041 with respect to diesel fuel or special motor fuels) whereby such supplier shall be liable to return and pay such tax for one or more retailers for the period for which such agreement is in effect. Any such agreement is subject to the provisions of section 6011(c) and the regulations in this section. As used in the regulations in this section:

(i) The term "supplier" includes any person who is a manufacturer, wholesale distributor, jobber, or other middleman;

(ii) The term "retailer" means any person who, without regard to section 6011(c) and the regulations in this section, is required to return and pay the tax;

(iii) The term "taxable article" means any article with respect to which a tax is imposed by any section of chapter 31 other than section 4041; and

(iv) A taxable article is deemed to be supplied by a supplier (*a*) on the date of the invoice of such article by the supplier to his vendee, or (*b*) in the absence of an invoice, on the date of the delivery of such article by the supplier to his vendee or a customer of such vendee, or to a carrier for delivery to such vendee or customer.

(2) (i) An agreement with a supplier may be entered into pursuant to the regulations in this section with respect to taxable articles which are supplied by such supplier directly to one or more retailers, but only if the agreement is made with respect to all taxable articles supplied by such supplier directly to retailers to whom the agreement is to be effective. For purposes of the regulations in this section, such an agreement is referred to as a Type A agreement.

(ii) An agreement with a supplier may be entered into pursuant to the regulations in this section with respect to specified taxable articles which are supplied by such supplier either directly or indirectly to retailers if (*a*) such supplier is not regularly engaged in the business of manufacturing or marketing such taxable articles, (*b*) such taxable articles are supplied primarily for the purpose of promoting retail sales of specified nontaxable articles, and (*c*) such taxable articles are so labeled, packaged, or marketed as to show clearly and visibly the name and address of such supplier and the fact that the retailers excise tax will be paid by such supplier. For purposes of the regulations in this section, such an agreement is referred to as a Type B agreement.

(b) *Application by supplier to enter into agreement.* (1) Application to enter into an agreement provided for in this section should be made by the supplier to the district director with whom the supplier files returns on Form 720, or with whom the supplier would file such returns if any retailers excise tax reportable on Form 720 were imposed on the supplier. The application should be made by letter, and should be accompanied by the original and two copies of the proposed agreement which have been signed by the supplier. See paragraph (c) of this section, relating to the terms of the agreement. If additional information relating to the agreement is desired, the supplier should communicate with the office of the district director.

(2) The application should contain a general description of the supplier's business, the kinds of merchandise sold which are subject to tax under chapter 31 of the Code, his methods of merchandising such articles, the type and approximate number of retailers for whom the supplier proposes to return and pay retailers excise tax, a copy of any previous agreement with, or communication from, the Internal Revenue Service authorizing the supplier to return and pay tax for any retailer, and any other information which the supplier deems pertinent to the proposed agreement. If a Type B agreement is proposed, the application also should set forth the general procedure to be followed in offering taxable articles to the public, including the method of labeling, packaging, or marketing such articles.

(3) When an agreement is accepted, a signed copy thereof will be returned by the district director to the supplier.

(c) *Contents of agreement.* (1) An agreement made pursuant to section 6011(c) shall be identified, in a descriptive title or in the first paragraph, as having been made pursuant to section 6011(c) of the Internal Revenue Code. In addition to the provisions prescribed in subparagraph (2) or (3) of this paragraph, the agreement may include other provisions which are agreed upon by the supplier and the district director. No particular form is prescribed for use in entering into such agreements. If printed forms are desired for use in entering into a Type A agreement, the district director will furnish copies of Form 2701 upon request.

(2) Each Type A agreement (see paragraph (a)(2)(i) of this section) shall include the following:

(i) The name and address of the supplier, the identification number (if any) assigned to the supplier for use in connection with depositary receipts, and the title and address of the district director;

(ii) A description, in such detail as may be practicable, of all taxable articles to be supplied by the supplier directly to retailers to whom the agreement is to be effective;

(iii) A statement that the agreement is applicable to all taxable articles inventoried pursuant to subdivision (v) of this subparagraph and to all taxable articles supplied by the supplier directly to a retailer during the period for which the agreement is in effect with respect to such retailer, but is not applicable to any taxable article supplied during such period by the supplier to such retailer indirectly through a middleman or otherwise, or supplied from any other source;

(iv) A provision that the period for which the agreement shall be in effect with respect to articles supplied to a particular retailer shall begin on the day designated by the supplier in writing on such retailer's statement of consent pursuant to paragraph (d) of this section;

(v) A provision that the agreement shall not be in effect with respect to a particular retailer unless the supplier obtains an inventory of all taxable articles specified in the agreement (exclusive of taxable articles with respect to which liability for the retailers excise tax has been incurred under a prior arrangement with the Internal Revenue Service) which are held by the retailer at the first moment of the day on which the agreement is intended to be effective with respect to such retailer (see paragraph (d) of this section), and which were supplied to such retailer (*a*) by such supplier or (*b*), except in the case of house-to-house salesmen, by any other person;

(vi) A provision by which the supplier agrees to return and pay retailers excise tax, computed in accordance with the provisions of the agreement, on (*a*) all taxable articles inventoried pursuant to subdivision (v) of this subparagraph, as if sold at retail on the day for which inventoried, and (*b*) all taxable articles supplied by the supplier directly to a retailer during the period for which the agreement is in effect for such retailer, as if such articles were sold at retail on the day on which so supplied;

(vii) A provision setting forth the method to be used in arriving at the tax base which will be used in computing the amount of retailers excise tax for which the supplier is liable pursuant to the agreement;

(viii) A provision by which the supplier agrees that, in the event he has reason to believe that there are facts or circumstances which might warrant a change in the provisions of the agreement relating to the method to be used in arriving at the tax base, he will promptly and fully inform the district director in writing of such facts or circumstances;

(ix) A provision by which the supplier agrees that, except as may be otherwise provided in the agreement or in applicable law or regulations, the supplier shall file one return on Form 720

for each tax-return period, and shall deposit and pay the retailers excise tax due from him by reason of the agreement, in the same manner as if such tax were imposed by law on the supplier as a retailer;

(x) A provision by which the supplier agrees to file with each return on Form 720 a statement showing the amount and kind of tax included in the return for each retailer (other than a retailer who is a house-to-house salesman), and the name and address of such retailer;

(xi) A provision by which the supplier agrees that, in rendering invoices of taxable articles with respect to which the supplier incurs liability under the agreement, he will show such tax as a separately identified amount;

(xii) A provision by which the supplier agrees to furnish a written statement to each retailer (other than a retailer who is a house-to-house salesman) on or before the last day of the second calendar month following each tax-return period for which the supplier has returned and paid retailers excise tax for such retailer, showing the amount of such tax paid, the date of payment, and the district director to whom such payment was made; and

(xiii) Appropriate provision for termination of the period for which the agreement shall be in effect, if any provision is desired in addition to the provisions of the regulations in paragraph (f) of this section.

(3) Each Type B agreement (see paragraph (a) (2) (ii) of this section) shall include the following:

(i) The name and address of the supplier, the identification number (if any) assigned to the supplier for use in connection with depositary receipts, and the title and address of the district director;

(ii) A description of (*a*) each taxable article with respect to which the supplier agrees to return and pay retailers excise tax pursuant to the agreement and (*b*) each related nontaxable article the retail sales of which are intended to be promoted by means of the supplying of such taxable article;

(iii) A description of the manner in which each taxable article will be labeled, packaged, or marketed to show clearly and visibly the name and address of the supplier and the fact that the retailers excise tax will be paid by the supplier;

(iv) A provision by which the supplier agrees to return and pay retailers excise tax on any taxable article described in the agreement, supplied by the supplier to any vendee at any time during the period for which the agreement is in effect, as if such article were sold at retail on the day on which so supplied;

(v) A provision setting forth the tax base, or the method to be used in arriving at the tax base, which will be used in computing the amount of retailers excise tax for which the supplier is liable pursuant to the agreement;

(vi) A provision by which the supplier agrees that, in the event he has reason to believe that there are facts or circumstances which might warrant a change in the provisions of the agreement relating to the tax base to be used, he will promptly and fully inform the district director in writing of such facts or circumstances;

(vii) A provision by which the supplier agrees that, except as may be otherwise provided in the agreement or in applicable law or regulations, the supplier shall file one return on Form 720 for each tax-return period, and shall deposit and pay the retailers excise tax due from him by reason of the agreement, in the same manner as if such tax were imposed by law on the supplier as a retailer;

(viii) Specification of the first day of the period for which the agreement shall be in effect; and

(ix) Appropriate provision for termination of the period for which the agreement shall be in effect, if any provision is desired in addition to the provisions of the regulations in paragraph (f) of this section.

(d) *Consent of retailer.* (1) A Type A agreement (see paragraph (a) (2) (i) of this section) shall be effective with respect to each retailer (i) who furnishes to the supplier a written statement of consent, in duplicate, in accordance with the provisions of this paragraph, and (ii) to whom the supplier returns the duplicate copy of such consent, on which the supplier, pursuant to subparagraph (3) of this paragraph, has entered the date on which the agreement becomes effective with respect to such retailer.

(2) No particular form is prescribed for use in furnishing the written statement of consent. Such statement and the duplicate copy thereof shall be signed and dated by the retailer, and shall include the following:

(i) The names and addresses of the retailer and of the supplier, and the identification number (if any) assigned to the supplier for use in connection with depositary receipts;

(ii) An identification of the agreement under section 6011(c) of the Code between the supplier and the district director;

(iii) The retailer's consent to the return and payment by the supplier, pursuant to such agreement, of retailers excise tax with respect to (*a*) any taxable articles which are inventoried pursuant to paragraph (c) (2) (v) of this section, and (*b*) all taxable articles which are supplied by the supplier directly to the retailer during the period for which the agreement is in effect with respect to such retailer;

(iv) A statement by the retailer that he will retain, as a record required by the regulations in this part, (*a*) the duplicate copy of the statement of consent which is returned to him by the supplier and which shows the date on which the agreement becomes effective with respect to such retailer, and (*b*) any information furnished to him pursuant to subdivision (xii) of paragraph (c) (2) of this section; and

(v) A statement of the retailer's understanding that he is relieved from the duty of making returns, deposits, and payments of retailers excise tax only to the extent that such duty is performed by the supplier pursuant to the agreement.

(3) After a retailer's written statement of consent is received by a supplier who has entered into a Type A agreement, the supplier shall enter on the original and duplicate thereof an additional statement, signed and dated by the supplier, specifying the first day of the period for which the agreement is in effect with respect to such retailer. The supplier shall return to the retailer the duplicate copy of the statement of consent in sufficient time so that the retailer will receive it before such first day. (For provisions relating to articles to be inventoried as of the first moment of such day, see paragraph (c) (2) (v) of this section.)

(e) *Effect of agreement.* (1) If, by reason of an agreement entered into pursuant to section 6011(c), a supplier is required to return and pay retailers excise tax, all provisions of law and regulations applicable in respect of retailers shall apply to the supplier, except as otherwise provided in the agreement.

(2) To the extent that a duty which otherwise would be imposed on a retailer is imposed on, and performed by, a supplier pursuant to an agreement under section 6011(c), the retailer shall not be required to perform such duty. Pursuant to section 6011(c) (1) (B) the retailer is not relieved from performance of any such duty which is not performed by the supplier.

(3) Retailers excise tax with respect to a taxable article will not be refunded or credited solely by reason of a difference between the actual retail selling price of such article and the tax base used in accordance with the terms of an agreement made pursuant to section 6011(c) and the regulations in this section. An assessment of such tax will not be made solely by reason of such a difference if such tax base is used in good faith. (For provisions relating to the tax base, see subparagraph (2) (vii) and (viii) and subparagraph (3) (v) and (vi) of paragraph (c) of this section.)

(4) See section 6416(a) (3) (B) and the regulations thereunder whereby, for purposes of certain credits or refunds, either the supplier or the retailer may be treated as the person who paid tax which is paid pursuant to an agreement under section 6011(c).

(f) *Termination of agreement.* (1) An agreement under section 6011(c), by its terms and conditions, may provide for the time and manner of termination of the period for which the agreement shall be in effect. Notwithstanding any such provision, or in the absence of any such provision, the Commissioner of Internal Revenue or the district director, in his discretion and on his own initiative or upon the request of a supplier or a retailer, may terminate the period for which an agreement is in effect, either with respect to all retailers or with respect to one or more designated retailers. Such termination shall take effect at such time and in such manner as the Commissioner or the district director may state in written notice to the supplier.

(2) Unless the period for which a Type B agreement is in effect terminates pursuant to the terms of such agreement, or is terminated pursuant to sub-

paragraph (1) of this paragraph, such period shall terminate at such time as the supplier permanently ceases to supply any article described in such agreement which is so labeled, packaged, or marketed as to show that retailers excise tax with respect to such article will be paid by the supplier. Regardless of the manner in which the period for which a Type B agreement is terminated, the supplier shall at the time of termination notify the district director of such termination. Such notice shall not relieve the supplier from liability for such tax with respect to any article supplied pursuant to such agreement.

(3) Unless otherwise terminated as provided in subparagraph (1) of this paragraph, the period for which a Type A agreement entered into by a supplier is in effect with respect to a retailer may be terminated by the sending of a written notice by the supplier to the retailer, or by the retailer to the supplier. Such termination shall take effect at the close of the last day of the month following the month in which such notice is sent, but such notice shall not relieve the supplier from liability incurred with respect to articles supplied to such retailer on or before such last day. If, at the close of such last day, the agreement no longer is in effect with respect to any retailer, the period for which such agreement is in effect is wholly terminated. Promptly thereafter the supplier shall send written notice to the district director acknowledging the termination of such period and informing the district director of the date of termination.

(4) (i) If the period for which a Type A agreement is in effect with respect to a retailer terminates for any reason, and if the supplier has reason to believe that after the last day of such period such retailer will continue to receive taxable articles either from such supplier or from any other person, the supplier shall furnish to such retailer on or before such last day a written statement which shall include the following:

(*a*) The name and address of the supplier and the name and address of the retailer;

(*b*) A description of the manner in which the retailer may identify any taxable articles with respect to which liability is incurred by the supplier (for example, by reference to invoice dates or numbers), as distinguished from taxable articles with respect to which liability is not incurred by the supplier; and

(*c*) Notice to the retailer that a copy of the statement will be furnished to the Internal Revenue Service.

The statement required by this subdivision may be combined, in appropriate circumstances, with the statement furnished by a supplier to a retailer pursuant to subparagraph (3) of this paragraph.

(ii) If a supplier is required by subdivision (i) of this subparagraph to furnish a written statement to a retailer, the supplier shall furnish a copy of such statement to the district director, preferably as an attachment to the first return on Form 720 filed by the supplier after such written statement is furnished to the retailer.

(g) *Effect on other authorizations to suppliers.* (1) In the case of any supplier who, prior to the date on which the regulations in this section are published in the FEDERAL REGISTER, has been making returns and payments of tax for one or more retailers under conditions permitted by the Internal Revenue Service prior to such date, other than the conditions stated in subparagraph (2) of this paragraph, such permission is terminated as of the close of the sixth calendar month following the month in which such regulations are so published unless prior to the close of such sixth month such supplier makes application, pursuant to paragraph (b) of this section, to enter into an agreement. If the district director does not enter into such agreement with the supplier, the supplier, in accordance with written notice by the district director, shall discontinue making such returns and payments of tax.

(2) The regulations in this section do not affect any authorization by a taxpayer whereby any person, as agent for such taxpayer under an acceptable power of attorney which has been filed with the Internal Revenue Service, makes a return on Form 720 for a tax-return period in the name of such taxpayer and includes in such return all taxes required to be reported by such taxpayer in such return for such period.

[F.R. Doc. 59-10173; Filed, Dec. 2, 1959; 8:49 a.m.]

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[43 CFR Part 115]

REVESTED OREGON AND CALIFORNIA RAILROAD AND RECONVEYED COOS BAY WAGON ROAD GRANT LANDS IN OREGON

Permits for Rights-of-Way for Logging Roads

Basis and purpose. Notice is hereby given that pursuant to the authority vested in the Secretary of the Interior by the act of August 28, 1937 (50 Stat. 874) it is proposed to amend 43 CFR 115.171. This amendment is necessary to provide for the exemption of road use fees under certain conditions.

This proposed amendment relates to matters which are exempt from the rule making requirements of the Administrative Procedure Act (5 U.S.C. 1003); however, it is the policy of the Department of the Interior that, wherever practicable, the rule making requirements be observed voluntarily. Accordingly, interested persons may submit written comments, suggestions, or objections with respect to the proposed amendments to the Bureau of Land Management, Washington 25, D.C., within thirty days of the date of publication of this notice in the FEDERAL REGISTER.

ROGER ERNST,
Assistant Secretary of the Interior.

NOVEMBER 25, 1959.

Part 115 is amended by adding a new paragraph (c) to § 115.171, reading as follows:

§ 115.171 Payment to the United States for road use.

* * * * *

(c) If an application is filed to use a road built on O. and C. lands by the applicant or his predecessor in interest under a permit which has expired, the authorized officer may issue a new permit which provides that as to such road the applicant's road use payments shall be determined in accordance with paragraph (b) of this section except that he shall be required to pay a road use fee which is adequate to amortize only his proportionate share of any capital improvements which have been or may be placed on the road by the United States or its licensees together with a reasonable interest allowance thereon plus cost of maintenance if furnished by the United States: *Provided, however,* That if the application is for use of a road which has been built by a predecessor in interest the permit shall provide that the applicant may use the road only for the purpose of reaching the lands of the predecessor in interest that were served by the road. As a condition for the granting of such a permit, the applicant must comply with § 115.162 to the extent that rights-of-way and road use rights are needed to manage lands of the United States or to remove timber therefrom.

[F.R. Doc. 59-10158; Filed, Dec. 2, 1959; 8:47 a.m.]

Fish and Wildlife Service

[50 CFR Part 34]

KENTUCKY WOODLANDS NATIONAL WILDLIFE REFUGE, KENTUCKY

Hunting of Turkey Gobblers

Notice is hereby given that pursuant to the authority contained in section 10 of the Migratory Bird Conservation Act of February 18, 1929 (45 Stat. 1224; 16 U.S.C. 715i), and under authority delegated by Commissioner's Order 4 (22 F.R. 8126), it is proposed to add § 34.62 to Subpart—Kentucky Woodlands National Wildlife Refuge, Kentucky, Chapter I, Title 50, Code of Federal Regulations, reading as set forth in tentative form below. The purpose is to permit the hunting of turkey gobblers on the Kentucky Woodlands National Wildlife Refuge in accordance with existing State procedures and regulations.

Interested persons may submit in duplicate written comments, suggestions, or objections with respect to the proposed addition to the Director, Bureau of Sport Fisheries and Wildlife, Washington 25, D.C., within thirty days of the date of

publication of this notice in the FEDERAL REGISTER.

Dated: November 27, 1959.

D. H. JANZEN,
Director, Bureau of Sport Fisheries and Wildlife.

Subpart—Kentucky Woodlands National Wildlife Refuge, Kentucky

HUNTING

§ 34.62 Hunting of turkey gobblers permitted.

Hunting of turkey gobblers is permitted on the Kentucky Woodlands National Wildlife Refuge, Kentucky, subject to the provisions of Parts 18 and 21 of this chapter and the following conditions:

(a) *Hunting methods and seasons.* Hunting with shotguns only, no larger than 12 gauge, slugs prohibited, is permitted April 27, 28, 29, 1960, inclusive, of turkey gobblers with visible beards. Strict compliance with all State laws and regulations is required. Hunters, upon entering or leaving the hunting area, shall report at such checking stations as may be established for regulating the hunting. All hunters shall check out of the refuge by 12 noon, c.s.t. The Regional Director shall regulate the number of turkey gobblers to be removed during the season.

(b) *Hunting area.* Hunting is permitted only on refuge lands directed by the Regional Director and as conspicuously posted by the officer-in-charge as open to public hunting: *Provided,* That the area open to public hunting shall not exceed 40 percent of the total lands within the boundaries of the refuge.

(c) *Hunting licenses and permits.* Any person who hunts within the refuge must possess a valid State hunting license, if such is required. In addition, each hunter must possess a Federal permit to hunt and must comply with the restrictions imposed by this permit.

(d) *Dogs.* No dogs are allowed in connection with the hunting of turkeys.

[F.R. Doc. 59-10155; Filed, Dec. 2, 1959; 8:46 a.m.]

DEPARTMENT OF AGRICULTURE

Commodity Stabilization Service

[7 CFR Part 718]

DETERMINATION OF ACREAGE AND PERFORMANCE

Notice of Proposed Rule Making

Pursuant to the authority contained in sections 374 and 375 of the Agricultural Adjustment Act of 1938, section 401 of the Agricultural Act of 1949, section 403 of the Sugar Act of 1948, and section 124 of the Soil Bank Act, it is proposed to amend the regulations governing the determination of acreage and compliance with the provisions of the programs carried out under the abovementioned acts in the following respects:

Section 718.5 (e) and (g) (1) would be amended to read as follows:

(e) *Effect of planting pattern on the determination of acreage.*

(1) *General.* In determining the acreage of any row crop, measurements shall extend beyond the planted area to a point equal to one-half the distance between rows. When allotment row crops or allotment row crops and other row crops are planted in alternate or intermittent rows, the acreage shall be considered as "interplanted". When allotment row crops are planted in strips of two or more rows with idle land, fallow land, other crops, or any combination thereof, the acreage shall be considered as "strip-cropped". The term "strip-cropped" includes what is commonly referred to in some areas as "skip-row plantings". Acreage determinations made in accordance with this paragraph are subject to deductions and adjustments provided in paragraphs (g) and (h) of this section.

(2) *Block or solid plantings of allotment row crops.* When an allotment row crop is planted in a continuous area and interplanting, strip-crop planting, or skip-row planting is not involved, the acreage of such crop shall be the acreage in the area devoted to the crop.

(3) *Interplantings, strip-crop, or skip-row plantings of allotment row crops.* When an allotment row crop is interplanted with either another allotment row crop or another row crop or is planted in a strip-crop or skip-row pattern with idle land, fallow land, other crops, or any combination thereof, the acreage of the allotment row crop for which the determination is being made shall be the acreage of the entire interplanted, strip-cropped, or skip-rowed area: *Provided, however,* That for areas in which the allotment row crop is planted in a strip-crop or skip-row pattern and the strips of the allotment row crop are eight or more rows of the crop in width, the acreage of such allotment crop shall be the acreage in the area devoted to that crop.

(4) *Close-sown or close-drilled allotment crops, other crops, and land uses.* The acreage of close-sown or close-drilled allotment crops, non-allotment crops, and other land uses shall be the acreage in the area devoted to each crop or land use.

(5) *Soil bank base crops.* The acreage of soil bank base crops shall be determined in accordance with the provisions of this paragraph except that where allotment crops are interplanted with or are planted in a strip-crop or skip-row pattern with other soil bank base crops and the entire acreage is determined to be an acreage of the allotment crop under the provisions of subparagraph (3) of this paragraph, the acreage shall be counted only once in determining the acreage of soil bank base crops.

(g) *Deductions*—(1) *General.* In determining the acreage of an allotment row crop, deductions shall be made, whenever applicable, for any continuous area not planted to the crop for which the acreage is being determined, provided it contains three-hundredths (0.03) acre or more and is not less than (i) the smaller of four links or one row in width in case of a deduction around the perimeter of an area, or (ii) one row in width of the row crop for which the acreage is being determined in case of a deduction within the planted area. In the case of close-sown or close-drilled crops and for other land uses, deductions may be made around the perimeter of an area if the deductible area is at least four links in width and contains three-hundredths (0.03) acre. Deduction within the area in such cases shall be subject only to the three-hundredths (0.03) acre limitation unless a width requirement is established or the minimum acreage limitation is increased by the State committee under the provisions of § 718.15. A deduction shall not be made under the provisions of this paragraph because of the election of a producer to plant varying width rows in an area or for any area which is determined to be an acreage of the crop under the provisions of subparagraph (3) of this paragraph.

This amendment would be necessary to conform the affected provisions of current regulations to the changes in the regulations brought about by the first amendment.

The proposed amendments would become effective beginning with the determination of acreages for crops planted for harvest in 1960. No allotment or history acreage for wheat, cotton, tobacco, rice, peanuts, or sugar, or any soil bank base, which was established on the basis of acreages determined prior to the effectiveness of the amendments herein, would be adjusted because of the amendments herein.

Prior to issuing these amendments, consideration will be given to data, views, and recommendations pertaining thereto which are submitted in writing to the Director, Performance Division, Commodity Stabilization Service, United States Department of Agriculture, Washington 25, D.C. All written submissions must be postmarked not later than 15 days after the date of publication of this notice in the FEDERAL REGISTER in order to be considered.

Issued at Washington, D.C., this 27th day of November 1959.

CLARENCE D. PALMBY,
Acting Administrator, Commodity Stabilization Service.

[F.R. Doc. 59-10178; Filed, Dec. 2, 1959; 8:50 a.m.]

FEDERAL COMMUNICATIONS COMMISSION

[47 CFR Part 3]

[Docket No. 13264]

TABLE OF ASSIGNMENTS; TELEVISION BROADCAST STATIONS

New Bedford, Mass.; Order Extending Time for Filing Comments

The Commission has before it for consideration a joint petition filed on No-

vember 24, 1959, by E. Anthony & Sons, Inc., Eastern States Broadcasting Corporation and New England Television Company, Inc., requesting an extension of time for filing comments in this proceeding to December 30, 1959.

In support of their request, petitioners state that the Commission proposes to delete Channel 6 from New Bedford, Massachusetts; that they are applicants for a television station on this channel in the city mentioned; that their applications, together with that of Wilson Broadcasting Corporation, are the subject of a comparative hearing which is now in progress before the Commission in Dockets 12432–12435, and that accordingly, they have an interest in the instant rule making proceeding.

Petitioners further allege that additional time is required for the preparation of comments, owing to the complexity of the issues in this matter and the relatively short period of time allowed by the Commission in the notice of proposed rule making. We are advised by petitioners that Wilson Broadcasting Corporation, although not a party to the petition, consents to the request for extension of time being made by petitioners.

We are of the view that petitioners have set forth good cause for the granting of some extension of time in these proceedings. However, we believe that the public interest would be best served by avoiding unnecessary delays, and that an extension to December 14, 1959, would provide a reasonable opportunity for all interested parties to prepare and submit comments.

In view of the foregoing: *It is ordered*, That the petition of E. Anthony & Sons, Inc., Eastern States Broadcasting Corporation and New England Television Company, Inc., for additional time to file comments is granted, in part; that the time for filing comments in this proceeding is extended from November 30, 1959, to December 14, 1959; and that the time for filing reply comments is extended from December 10, 1959, to December 24, 1959.

Adopted: November 27, 1959.

Released: November 27, 1959.

FEDERAL COMMUNICATIONS COMMISSION,
[SEAL] MARY JANE MORRIS,
Secretary.

[F.R. Doc. 59–10191; Filed, Dec. 2, 1959; 8:51 a.m.]

NOTICES

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

NEW MEXICO

Change of Location for Land Office

NOVEMBER 27, 1959.

Notice is hereby given that, effective December 14, 1959, the New Mexico Land Office of the Bureau of Land Management will be located at 113 Washington Avenue, Santa Fe, New Mexico. On December 9, 10, 11, 1959, the public land records will not be available for inspection by the public, but personnel of the Land Office will be available to receive rental payments and applications, and for consultation purposes on those dates between hours of 10:00 a.m., and 3:00 p.m., in room 113, at 113 Washington Avenue, Santa Fe, New Mexico. Applications received after 3:00 p.m., December 8 and before 10:00 a.m., December 14, will be considered as having been received at 10:00 a.m., December 14, 1959.

The present mailing address, P.O. Box 1251, Santa Fe, New Mexico, remains unchanged.

W. J. ANDERSON,
Acting State Supervisor.

[F.R. Doc. 59–10156; Filed, Dec. 2, 1959; 8:46 a.m.]

NEVADA

Proposed Withdrawal and Reservation of Lands

NOVEMBER 23, 1959.

The Corps of Engineers on behalf of the Department of Air Force has filed an application, Serial No. Nevada–045154, for the withdrawal of the lands described below, from all forms of appropriation, including the mining and mineral leasing laws and disposals of materials under the act of July 31, 1947 (61 Stat. 681; 30 U.S.C. 601–604), as amended. The applicant desires the land for construction and operation of two X–15 Radar Ranges in connection with Edwards Air Force Base, California.

For a period of 30 days from the date of publication of this notice, all persons who wish to submit comments, suggestions, or objections in connection with the proposed withdrawal may present their views in writing to the undersigned official of the Bureau of Land Management, Department of the Interior, P.O. Box 1551, Reno, Nevada.

If circumstances warrant it, a public hearing will be held at a convenient time and place, which will be announced.

The determination of the Secretary on the application will be published in the FEDERAL REGISTER. A separate notice will be sent to each interested party of record.

The lands involved in the application are unsurveyed and are described as follows:

MOUNT DIABLO MERIDIAN, NEVADA

TRACT NO. 1

(Ely Range)

Commencing for reference at U.S.C. and G.S. Triangulation Station entitled "South Ridge", whose geographical position is latitude 39°18'31.20" and longitude is 115°05'07.25";
Thence south 330 feet to the point of beginning;
Thence west 330 feet;
Thence north 660 feet;
Thence east 660 feet;
Thence south 660 feet;
Thence west 330 feet to the point of beginning.

Tract No. 1 contains 10 acres more or less.

TRACT NO. 2

(Beatty Range)

Commencing for reference at a point on a high peak in the Oasis Mountains presently occupied by a radio relay station whose approximate geographical location is latitude 37°05' and longitude 116°49';
Thence south 466.69 feet to the point of beginning;
Thence west 466.69 feet;
Thence north 933.38 feet;
Thence east 933.38 feet;
Thence south 933.38 feet;
Thence west 466.69 feet to the point of beginning.

Tract No. 2 contains 19 acres more or less.

E. J. PALMER,
State Supervisor.

[F.R. Doc. 59–10157; Filed, Dec. 2, 1959; 8:47 a.m.]

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

[P. & S. Docket No. 383]

MARKET AGENCIES AT ST. LOUIS NATIONAL STOCK YARDS

Notice of Petition for Modification of Rate Order

Pursuant to the provisions of the Packers and Stockyards Act, 1921, as amended (7 U.S.C. 181 et seq.), an order was issued on June 5, 1959 (18 A.D. 619), authorizing the respondents, Market Agencies at St. Louis National Stock Yards, National Stock Yards, Illinois, to assess the current temporary schedule of rates and charges to and including May 31, 1960, unless modified or extended by further order before the latter date.

By a petition filed on November 19, 1959, the respondents requested authority to modify the current temporary schedule of rates and charges as indicated below. It was also requested that the current schedule, as so modified, be made effective as soon as possible and remain in effect to and including May 31, 1960.

BUYING CHARGES

Cattle

* * * * *

Maximum charge on any purchase order of cattle shipped out by rail shall not exceed an amount equal to $45.00 (presently $40.00) multiplied by the number of cars in which the order is shipped out.

Calves

* * * * *

Maximum charge on any purchase order of calves shipped out by rail shall not exceed an amount equal to $45.00 (presently $40.00) multiplied by the number of single-deck cars plus $60.00 multiplied by the number of double-deck cars in which the order is shipped out.

Bulls

* * * * *

Maximum charge on any purchase order of bulls shipped out by rail shall not exceed an amount equal to $45.00 (presently $40.00) multiplied by the number of cars in which the order is shipped out.

The modifications, if authorized, will produce additional revenue for the respondents and increase the cost of marketing livestock. Accordingly, it appears that this public notice of the filing of the petition and its contents should be given in order that all interested persons may have an opportunity to indicate a desire to be heard in the matter.

All interested persons who desire to be heard in the matter shall notify the Hearing Clerk, United States Department of Agriculture, Washington 25, D.C., within 15 days after the publication of this notice.

Done at Washington, D.C., this 27th day of November 1959.

LEE D. SINCLAIR,
Acting Director, Livestock Division, Agricultural Marketing Service.

[F.R. Doc. 59-10165; Filed, Dec. 2, 1959; 8:48 a.m.]

DEPARTMENT OF COMMERCE

Federal Maritime Board

MEMBER LINES OF TRANS-PACIFIC FREIGHT CONFERENCE OF JAPAN

Notice of Agreements Filed With the Board for Approval

Notice is hereby given that the following described agreements have been filed with the Board for approval pursuant to section 15 of the Shipping Act, 1916 (39 Stat. 733, 46 U.S.C. 814):

(1) Agreement No. 150-18, between the member lines of the Trans-Pacific Freight Conference of Japan, modifies the basic agreement of that conference, which covers the trade from Japan, Korea and Okinawa to Hawaii and Pacific Coast ports of the United States and Canada. The purpose of the modification is to include the trade from Japan, Korea and Okinawa to Alaska within the scope of the conference.

(2) Agreement No. 8414, between Mississippi Shipping Company, Inc., and Waterman Steamship Corporation of Puerto Rico, covers a through billing arrangement in the trade from Puerto Rico to ports in Argentina, Uruguay and Brazil, with transhipment at New Orleans or Mobile.

Interested parties may inspect these agreements and obtain copies thereof at the Regulation Office, Federal Maritime Board, Washington, D.C., and may submit, within 20 days after publication of this notice in the FEDERAL REGISTER, written statements with reference to either of the agreements and their position as to approval, disapproval, or modification, together with request for hearing should such hearing be desired.

Dated: November 30, 1959.

By order of the Federal Maritime Board.

JAMES L. PIMPER,
Secretary.

[F.R. Doc. 59-10169; Filed, Dec. 2, 1959; 8:48 a.m.]

ATOMIC ENERGY COMMISSION

[Docket 50-124]

VIRGINIA POLYTECHNIC INSTITUTE

Notice of Proposed Issuance of Facility License

Please take notice that, unless within fifteen (15) days after the filing of this notice with the Office of the Federal Register a request for a formal hearing is filed with the Commission as provided by the Commission's rules of practice (10 CFR Part 2), the Atomic Energy Commission proposes to issue to Virginia Polytechnic Institute, Blacksburg, Virginia, a facility license substantially as set forth below authorizing the possession and operation of an Argonaut-type training and research reactor at power levels up to 10 kilowatts (thermal), if it is determined after review of the applicant's amendment dated November 20, 1959, relating primarily to the ventilation system and the experimental program, that the reactor can be operated at the designated location without endangering the health and safety of the public, and if it is determined that the reactor has been constructed in accordance with the provisions of Construction Permit No. CPRR-43. Requests for formal hearing should be addressed to the Secretary at the AEC's offices at Germantown, Maryland, or to the AEC's Public Document Room, 1717 H Street NW., Washington, D.C.

For further details see the application submitted by the Virginia Polytechnic Institute, and amendments thereto, on file at the AEC's Public Document Room, at the above address.

Dated at Germantown, Md., this 27th day of November 1959.

For the Atomic Energy Commission.

H. L. PRICE,
Director, Division of Licensing and Regulation.

PROPOSED LICENSE

[License No. R-]

1. This license applies to the Argonaut-type water-moderated and -cooled, graphite-reflected, nuclear reactor (hereinafter referred to as "the reactor") which is owned by Virginia Polytechnic Institute and located at Blacksburg, Virginia, and described in the application dated February 5, 1959, and amendments thereto dated April 1, 1959, July 2, 1959, and November 20, 1959, (hereinafter collectively referred to as "the application").

2. Pursuant to the Atomic Energy Act of 1954, as amended, (hereinafter referred to as "the Act") and having considered the record in this matter, the Atomic Energy Commission (hereinafter referred to as "the Commission") finds that:

A. The reactor has been constructed in conformity with Construction Permit No. CPRR-43 issued to Virginia Polytechnic Institute and will operate in conformity with the application and in conformity with the Act and with the rules and regulations of the Commission.

B. There is reasonable assurance that the reactor can be operated at the designated location without endangering the health and safety of the public.

C. Virginia Polytechnic Institute is technically and financially qualified to operate the reactor and to assume financial responsibility for payment of Commission charges for special nuclear material and to undertake and carry out the proposed use of such material for a reasonable period of time.

D. The possession and operation of the reactor and the receipt, possession and use of the special nuclear material in the manner proposed in the application will not be inimical to the common defense and security or to the health and safety of the public.

E. Virginia Polytechnic Institute is a nonprofit educational institution and will use the reactor for the conduct of educational activities. Virginia Polytechnic Institute is therefore exempt from the financial protection requirement of subsection 170a of the Act.

3. Subject to the conditions and requirements incorporated herein, the Commission hereby licenses Virginia Polytechnic Institute:

A. Pursuant to section 104c of the Act and Title 10, CFR, Chapter 1, Part 50, "Licensing of Production and Utilization Facilities", to possess and operate the reactor as a utilization facility at the designated location in Blacksburg, Virginia, in accordance with the procedures and limitations described in the application.

B. Pursuant to the Act and Title 10, CFR, Chapter 1, Part 70, "Special Nuclear Material", to possess and use up to four (4.000) kilograms of contained uranium 235 in connection with operation of the reactor.

C. Pursuant to the Act and Title 10, CFR, Chapter 1, Part 70, "Special Nuclear Material", to possess and use in connection with operation of the reactor up to 16 grams of plutonium encapsulated as a plutonium-beryllium neutron source.

D. Pursuant to the Act and Title 10, CFR, Chapter 1, Part 30, "Licensing of Byproduct Material", to possess, but not to separate such byproduct material as may be produced from operation of this reactor.

4. This license shall be deemed to contain and be subject to the conditions specified in § 50.54 of Part 50 and § 70.32 of Part 70, Title 10, CFR, and to be subject to all applicable provisions of the Act, and to the rules, and regulations and orders of the Commission now or hereafter in effect, and to the additional conditions specified below:

A. Virginia Polytechnic Institute shall not operate the reactor at power levels in excess of 10 kilowatts without previous authorization from the Commission.

B. In addition to those otherwise required under this license and applicable regulations Virginia Polytechnic Institute shall keep the following records:

1. Reactor operating records, including power levels.

2. Records of in-pile irradiations.

3. Records showing radioactivity released or discharged into the air or water beyond the effective control of Virginia Polytechnic Institute as measured at the point of such release or discharge.

4. Records of emergency reactor scrams, including reasons for emergency shutdowns.

C. Virginia Polytechnic Institute shall immediately report to the Commission in writing any indication or occurrence of a possible unsafe condition relating to the operation of the reactor.

5. This license is effective as of the date of issuance and shall expire at midnight November 16, 1969.

For the Atomic Energy Commission.

Date of issuance:

[F.R. Doc. 59-10143; Filed, Dec. 2, 1959; 8:45 a.m.]

FEDERAL COMMUNICATIONS COMMISSION

[Docket No. 12787 etc.; FCC 59M-1601]

WALTER L. FOLLMER ET AL.

Order Scheduling Prehearing Conference

In re applications of Walter L. Follmer, Hamilton, Ohio, Docket No. 12787, File No. BP-11323; Interstate Broadcasting Company, Inc. (WQXR), New York, New York, Docket No. 12790, File No. BP-11707; Booth Broadcasting Company (WTOD), Toledo, Ohio, Docket No. 12793, File No. BP-12035; for construction permits.

The Hearing Examiner having under consideration a letter from counsel for Booth Broadcasting Company requesting that a hearing conference be scheduled for December 4, 1959;

It appearing that certain difficulties exist with respect to the engineering presentations and that an attempt to resolve them could best be made at a conference before the Hearing Examiner with all parties present;

It is ordered, This 27th day of November 1959, that a further hearing conference will be held on December 4, 1959, at 2:00 p.m.

Released: November 27, 1959.

FEDERAL COMMUNICATIONS COMMISSION,
[SEAL] MARY JANE MORRIS,
Secretary.

[F.R. Doc. 59-10181; Filed, Dec. 2, 1959; 8:50 a.m.]

[Docket No. 12826, 12942; FCC 59M-1592]

HERBERT T. GRAHAM AND TRIAD TELEVISION CORP.

Order Continuing Hearing

In re applications of Herbert T. Graham, Lansing, Michigan, Docket No. 12826, File No. BP-12526; Triad Television Corporation, Lansing, Michigan, Docket No. 12942, File No. BP-12980; for construction permits for standard broadcast stations.

Counsel for Triad having given notice of the taking of depositions in Lansing on December 1, 1959, and it therefore being appropriate to continue the hearing now scheduled for December 1, 1959:

It is ordered, This 25th day of November 1959, that the hearing is continued to Wednesday, December 16, 1959, at 10:00 a.m., in the offices of the Commission, Washington, D.C.

Released: November 25, 1959.

FEDERAL COMMUNICATIONS COMMISSION,
[SEAL] MARY JANE MORRIS,
Secretary.

[F.R. Doc. 59-10182; Filed, Dec. 2, 1959; 8:50 a.m.]

[Docket No. 12733; FCC 59M-1572]

NORMAN E. KAY

Order Continuing Hearing

In re application of Norman E. Kay, Del Mar, California, Docket No. 12733, File No. BP-12089; for construction permit.

The Hearing Examiner having under consideration the desirability of continuing the hearing in the above-entitled proceeding;

It appearing that the applicant has filed a petition requesting dismissal of its application;

It is ordered, This 20th day of November 1959, that the hearing now scheduled for November 23, 1959, is continued indefinitely.

Released: November 25, 1959.

FEDERAL COMMUNICATIONS COMMISSION,
[SEAL] MARY JANE MORRIS,
Secretary.

[F.R. Doc. 59-10183; Filed, Dec. 2, 1959; 8:50 a.m.]

[Docket Nos. 12049, 12050; FCC 59M-1599]

JEFFERSON RADIO CO. AND BESSEMER BROADCASTING CO., INC. (WEZB)

Order Continuing Hearing

In re applications of W. D. Frink, tr/as Jefferson Radio Company, Irondale, Alabama, Docket No. 12049, File No. BP-10672; The Bessemer Broadcasting Company, Incorporated (WEZB), Bessemer, Alabama, Docket No. 12050, File No. BP-10886; for construction permits.

At the joint request of all parties to this proceeding made orally to the Examiner on November 25, 1959: *It is ordered,* This 25th day of November 1959, that hearing in the above-entitled proceeding now scheduled for November 30, 1959, is continued to a date to be determined at a pre-hearing conference to be held at 4:00 p.m. on December 21, 1959.

Released: November 27, 1959.

FEDERAL COMMUNICATIONS COMMISSION,
[SEAL] MARY JANE MORRIS,
Secretary.

[F.R. Doc. 59-10184; Filed, Dec. 2, 1959; 8:50 a.m.]

[Docket No. 12690; FCC 59M-1604]

LOS BANOS BROADCASTING CO.

Order Scheduling Hearing

In re application of James H. Rose, tr/as Los Banos Broadcasting Company, Los Banos, California, Docket No. 12690, File No. BP-11874; for construction permit.

It is ordered, This 27th day of November 1959 pursuant to the agreement reached at the prehearing conference held herein on November 27, 1959, that hearing in the above-entitled proceeding is scheduled to commence on January 25, 1959, at 10:00 a.m. in the offices of the Commission at Washington, D.C.

Released: November 30, 1959.

FEDERAL COMMUNICATIONS COMMISSION,
[SEAL] MARY JANE MORRIS,
Secretary.

[F.R. Doc. 59-10185; Filed, Dec. 2, 1959; 8:51 a.m.]

[Docket No. 13272; FCC 59M-1583]

ULSTER COUNTY BROADCASTING CO.

Order Scheduling Hearing

In re application of Saul Dresner, Alfred Dresner, Samuel Dresner and Rose Dresner, d/b as Ulster County Broadcasting Company, Ellenville, New York, Docket No. 13272, File No. BP-11781; for construction permit.

It is ordered, This 23d day of November 1959, that Annie Neal Huntting will preside at the hearing in the above-entitled proceeding which is hereby scheduled to commence on January 28, 1960, in Washington, D.C.

Released: November 24, 1959.

FEDERAL COMMUNICATIONS COMMISSION,
[SEAL] MARY JANE MORRIS,
Secretary.

[F.R. Doc. 59-10188; Filed, Dec. 2, 1959; 8:51 a.m.]

[Docket No. 13150; FCC 59M-1565]

PATTERSON SHRIMP CO., INC.

Order Continuing Hearing

In the matter of Patterson Shrimp Company, Inc., P.O. Box 98, Patterson, Louisiana, Docket No. 13150; order to show cause why there should not be revoked the License for Radio Station WC-3826 aboard the vessel "Howard Rochel."

The Hearing Examiner having under consideration the pleading titled "Petition to Accept Late Filing" submitted in the above-entitled proceeding on November 17, 1959, by Patterson Shrimp Company, Inc.

It appearing that by said pleading petitioner requests "time to enter its appearance at this late date" and an indefinite continuance of the hearing date to afford it opportunity to proceed under

the waiver of hearing provisions of § 1.62 of the Commission's rules;

It appearing that the Commission's Special and Safety Radio Services Bureau has consented to immediate consideration and grant of the said petition and for the reasons set forth therein good cause for a grant has been shown;

It is ordered, This 19th day of November 1959 that the said petition is granted, the notice of appearance tendered therewith is accepted, and the hearing proceeding herein presently scheduled to commence on November 23, 1959, is continued without date.

Released: November 20, 1959.

FEDERAL COMMUNICATIONS COMMISSION,
[SEAL] MARY JANE MORRIS,
Secretary.

[F.R. Doc. 59-10186; Filed, Dec. 2, 1959; 8:51 a.m.]

[Docket No. 13285]

GERALD BAHL

Order To Show Cause

In the matter of Mr. Gerald Bahl, 102 Lincoln Avenue, Hinckley, Illinois, Docket No. 13285; order to show cause why there should not be revoked the license for Citizens Radio Station 18W1990.

There being under consideration the matter of certain alleged violations of the Commission's rules in connection with the operation of the above-captioned station;

It appearing that, pursuant to § 1.61 of the Commission's rules, written notice of violation of the Commission's rules was served upon the above-named licensee as follows:

Official Notice of Violation was mailed to the licensee on August 24, 1959, alleging that on August 15, 1959, at approximately 11:49 a.m., e.s.t. and again at approximately 11:57 a.m., e.s.t., the subject radio station was observed operating with excessive frequency deviation from the frequency 27,155 kc in violation of § 19.33 of the Commission's rules.

It further appearing that the above-named licensee received said Official notice but did not make satisfactory reply thereto, whereupon the Commission, by letter dated September 19, 1959, and sent by Certified Mail—Return Receipt Requested (No. 3429079), brought this matter to the attention of the licensee and requested that such licensee respond to the Commission's letter within fifteen days from the date of its receipt stating the measures which had been taken, or were being taken, in order to bring the operation of the radio station into compliance with the Commission's rules, and warning the licensee that his failure to respond to such letter might result in the institution of proceedings for the revocation of the radio station license; and

It further appearing that receipt of the Commission's letter was acknowledged by the signature of the licensee on September 21, 1959 to a Post Office Department return receipt; and

It further appearing that, although more than fifteen days have elapsed since the licensee's receipt of the Commission's letter, no response was made thereto; and

It further appearing that, in view of the foregoing, the licensee has willfully violated § 1.61 of the Commission's rules;

It is ordered, This 30th day of November 1959, pursuant to section 312 (a) (4) and (c) of the Communications Act of 1934, as amended, and section 0.291(b) (8) of the Commission's Statement of Delegations of Authority, that the said licensee show cause why the license for the above-captioned Radio Station should not be revoked and appear and give evidence in respect thereto at a hearing[1] to be held at a time and place to be specified by subsequent order; and

It is further ordered, That the Secretary send a copy of this order by Certified Mail—Return Receipt Requested to the said licensee.

Released: November 30, 1959.

FEDERAL COMMUNICATIONS COMMISSION,
[SEAL] MARY JANE MORRIS,
Secretary.

[F.R. Doc. 59-10187; Filed, Dec. 2, 1959; 8:51 a.m.]

[Docket Nos. 13155-13160; FCC 59M-1597]

WACO RADIO CO. ET AL.

Order Scheduling Prehearing Conference

In re applications of Jacob A. Newborn, Jr., Trustee for Nancy and Nena Newborn, tr/as Waco Radio Company, Waco, Texas, Docket No. 13155, File No. BP-9763; Hugh M. McBeath, Waco, Texas, Docket No. 13156, File No. BP-10001; Floyd Bell, Texarkana, Texas, Docket No. 13157, File No. BP-11870; Radio Broadcasters, Inc., Waco, Texas, Docket No. 13158, File No. BP-12465; Belton Broadcasters, Inc., Belton, Texas, Docket No. 13159, File No. BP-12934; H. A. Bridges, Jr., R. L. Hicks, Samuel R. Jones and James G. Ulmer, a partnership, d/b as Heart of Texas Broadcasters, Waco, Texas, Docket No. 13160, File No. BP-12985; for construction permits.

The Hearing Examiner having under consideration the procedure to be followed in the above-entitled matter which is scheduled for hearing on December 15, 1959; now therefore,

It is ordered, This 25th day of November 1959, pursuant to § 1.111 of the Commission's rules, that the parties or their attorneys shall appear at the offices of the Commission in Washington, D.C. at 10:00 a.m. on Tuesday, December 15, 1959, for a prehearing conference to consider:

1. The necessity or desirability of simplification, clarification, amplification, or limitation of the issues;
2. The possibility of stipulating with respect to facts;
3. The procedures to be followed prior to and at the hearing;
4. The limitation of the number of witnesses;
5. The procedures and schedules for the prior mutual exchange between the parties of prepared testimony and exhibits; and
6. Such other matters as may aid in the disposition of this proceeding; and

It is further ordered, That the hearing now scheduled to be commenced on December 15, 1959, is continued to a date to be fixed by subsequent order.

Released: November 27, 1959.

FEDERAL COMMUNICATIONS COMMISSION,
[SEAL] MARY JANE MORRIS,
Secretary.

[F.R. Doc. 59-10189; Filed, Dec. 2, 1959; 8:51 a.m.]

[1] Section 1.62 of the Commission's rules provides that a licensee, in order to avail himself of the opportunity to be heard, shall, in person or by his attorney, file with the Commission, within thirty days of the receipt of the order to show cause, a written statement stating that he will appear at the hearing and present evidence on the matter specified in the order. In the event it would not be possible for respondent to appear for hearing in the proceeding if scheduled to be held in Washington, D.C., he should advise the Commission of the reasons for such inability within five days of the receipt of this order. If the licensee fails to file an appearance within the time specified, the right to a hearing shall be deemed to have been waived. Where a hearing is waived, a written statement in mitigation or justification may be submitted within thirty days of the receipt of the order to show cause. If such statement contains, with particularity, factual allegations denying or justifying the facts upon which the show cause order is based, the Hearing Examiner may call upon the submitting party to furnish additional information, and shall request all opposing parties to file an answer to the written statement and/or additional information. The record will then be closed and an initial decision issued on the basis of such procedure. Where a hearing is waived and no written statement has been filed within the thirty days of the receipt of the order to show cause, the allegations of fact contained in the order to show cause will be deemed as correct and the sanctions specified in the order to show cause will be invoked.

CIVIL AERONAUTICS BOARD

[Docket No. 10963]

EMPRESA DE TRANSPORTES AEROVIAS BRASIL, S.A.

Notice of Hearing

In the matter of the application of Empresa De Transportes Aerovias Brasil, S.A., for amendment of its foreign air carrier permit under section 402 of the Federal Aviation Act of 1958 so as to eliminate the point New Orleans, Louisiana, therefrom.

Notice is hereby given, pursuant to the Federal Aviation Act of 1958, that a hearing in the above-entitled proceeding is assigned to be held on January 12, 1960, at 10:00 a.m., e.s.t. in Room 911, Universal Building, Connecticut and Florida Avenues NW., Washington, D.C., before Examiner Curtis C. Henderson.

Dated at Washington, D.C., November 27, 1959.

[SEAL] FRANCIS W. BROWN,
Chief Examiner.

[F.R. Doc. 59-10176; Filed, Dec. 2, 1959; 8:50 a.m.]

FEDERAL POWER COMMISSION

[Docket No. G-19395]

COLORADO INTERSTATE GAS CO.

Notice of Application and Date of Hearing

NOVEMBER 27, 1959.

Take notice that Colorado Interstate Gas Company (Applicant), a Delaware corporation with a principal office in Colorado Springs, Colorado, filed an application on September 8, 1959, and supplemented on October 16, 1959, pursuant to section 7 of the Natural Gas Act, for a certificate of public convenience and necessity to construct, operate and relocate facilities and for authority to sell to the City of Colorado Springs certain lateral line and metering facilities in and near Colorado Springs, Colorado, and to abandon certain other facilities in the same area. The construction, relocation, sale and retirement of facilities are proposed in connection with Applicant's proposed sale of facilities to the City. The entire proposal is a rearrangement of existing gas service by Applicant to the City. The proposals are more fully described in the application, and supplement, on file with the Commission and open to public inspection. The facilities to be transferred to the City will be sold at a price equivalent to their depreciated original cost at date of transfer.

Applicant states it is not requesting increased main line capacity or proposing new or additional gas service and that no customers will be deprived of service as a result of the proposed sale and retirement of facilities. Applicant further states it now serves the City through three laterals, designated the North Lateral, the South Lateral and the South Loop Lateral, all owned and operated by Colorado and extending westward from three points of connection with Colorado's main Panhandle-Denver pipeline to the City's distribution system.

Applicant proposes to:

(1) Sell to the City (a) its North Lateral consisting of 6 miles of 10-inch pipeline; (b) the South Loop Lateral consisting of 6.3 miles of 8-inch pipeline; (c) 4.1 miles of the South Lateral and (d) 220 feet of 6-inch pipeline which bypasses the City's Power Plant No. 1.

(2) Retire from service two meter stations now attached to the western termini of the North, South Loop and South Laterals and construct in lieu thereof two new meter stations to be connected, at Applicant's main line, to the North Lateral and the South Loop Lateral at their eastern termini; retire from service 2.1 miles of the existing 8-inch South Lateral and the Peterson Airfield meter station located between the main line and the western end of Peterson Airfield. The airfield is now served by the City with gas received from the portion of the South Lateral to be retired. After the transfer and retirement of facilities, the City will continue service to Peterson with gas received from the South Loop Lateral.

(3) Sell to the City the Fountain Valley School metering station and a 0.9 mile portion of the Fountain Valley School 2-inch lateral now used by Applicant to serve the school directly, just south of the City. In addition, Colorado proposes to abandon its direct service to the Fountain Valley School and transfer this customer to the City.

(4) Construct and operate 1.5 miles of 8-inch lateral and a new meter station, to be known as the Security Lateral, which will replace in the same location the remaining 1.5 miles of the 2-inch Fountain Valley School Lateral to be abandoned in place.

The application recites: the proposed 8-inch Security Lateral will replace 1.5 miles of the present 2-inch Fountain Valley School Lateral. At the present time, the Village of Security located near the school is served by the City through its 5-inch line from the south terminus of its Fort Carson lines. Flow in the 5-inch line will be reversed and gas for Security will be provided through the new 8-inch Security Lateral which will also serve the school. The capacity of the lateral to be constructed is required by the present service to existing customers. The Village of Security has a peak day demand of 3,958 Mcf and annual requirements of approximately 869,760 Mcf. The construction of the Security Lateral will create a new delivery point to the City, which, it is claimed, will result in a saving to the City by making it unnecessary to build additional distribution facilities to serve the expanding load in the area.

Applicant estimates the total cost of facilities to be constructed, including the three meter stations and the Security Lateral, to be $196,908. The original cost of the facilities to be transferred to the City is shown on Applicant's books as of June 30, 1959, to be $261,163. Estimated depreciated cost as of September 30, 1960, the latest date for transfer of the facilities, is $177,302. The original cost of the facilities to be retired as of June 30, 1959, is shown to be $94,329 and the depreciated cost as of September 30, 1960, is estimated to be $64,907. Applicant will retain all salvageable equipment for future use.

Applicant estimates a new annual reduction of about $22,078 in its cost of service after the proposed sale, construction, and retirement of facilities takes place.

This matter is one that should be disposed of as promptly as possible under the applicable rules and regulations and to that end:

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Power Commission by sections 7 and 15 of the Natural Gas Act, and the Commission's rules of practice and procedure, a hearing will be held on January 13, 1960, at 9:30 a.m., e.s.t., in a Hearing Room of the Federal Power Commission, 441 G Street NW., Washington, D.C., concerning the matters involved in and the issues presented by such application: *Provided, however,* That the Commission may, after a noncontested hearing, dispose of the proceedings pursuant to the provisions of § 1.30(c) (1) or (2) of the Commission's rules of practice and procedure. Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicant to appear or be represented at the hearing.

Protests or petitions to intervene may be filed with the Federal Power Commission, Washington 25, D.C., in accordance with the rules of practice and procedure (18 CFR 1.8 or 1.10) on or before January 4, 1960. Failure of any party to appear at and participate in the hearing shall be construed as a waiver of and concurrence in omission herein of the intermediate decision procedure in cases where a request therefor is made.

JOSEPH H. GUTRIDE,
Secretary.

[F.R. Doc. 59-10144; Filed, Dec. 2, 1959; 8:45 a.m.]

[Docket No. G-19190]

MISSISSIPPI RIVER FUEL CORP.

Notice of Application and Date of Hearing

NOVEMBER 27, 1959.

Take notice that Mississippi River Fuel Corporation (Applicant) filed on August 7, 1959, an application in Docket No. G-19190 for a certificate of public convenience and necessity, pursuant to section 7(c) of the Natural Gas Act authorizing the construction and operation of facilities necessary to effect the direct sale of up to 500 Mcf per day of natural gas on an interruptible basis to T. L. James and Company, Inc., (James) for a period not to extend beyond April 30, 1960, subject to the jurisdiction of the Commission all as more fully represented in the application which is on file with the Commission and open to public inspection.

The proposed facilities consisting of a tap and measuring and regulating station, are to be installed on Applicant's West Line in Louisiana, approximately 4 miles west of its Minden, Louisiana, compressor station and are to be used to supply gas for firing an asphalt kiln to be located at an asphalt plant which James proposes to construct near Minden. It is stated that James will supply asphalt for the use in the reconstruction of Louisiana State Route 7.

The proposed sale will be made under a contract to be entered into by Applicant with T. L. James & Company, Inc., providing for service on an interruptible basis for a period of from three to six months after the date of first delivery with deliveries in no event to continue beyond April 30, 1960.

The estimated total cost of facilities is $1,018, of which James will pay $175, the installation costs, and Applicant will bear $843, the material cost. Applicant

estimates salvage value of $700 will be applicable to the $343 for materials.

Applicant states the revenues to result from the proposed sale to be $23,250 based upon the sale of 62,000 Mcf at 37.5 cents per Mcf. Expenses are estimated to be $17,600 and the resulting income is $5,650.

This matter is one that should be disposed of as promptly as possible under the applicable rules and regulations and to that end:

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Power Commission by sections 7 and 15 of the Natural Gas Act, and the Commission's rules of practice and procedure, a hearing will be held on January 6, 1960 at 9:30 a.m., e.s.t., in a Hearing Room of the Federal Power Commission, 441 G Street, NW., Washington, D.C., concerning the matters involved in and the issues presented by such application: *Provided, however,* That the Commission may after a non-contested hearing, dispose of the proceedings pursuant to the provisions of § 1.30(c) (1) or (2) of the Commission's rules of practice and procedure. Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicant to appear or be represented at the hearing.

Protests or petitions to intervene may be filed with the Federal Power Commission, Washington 25, D.C., in accordance with the rules of practice and procedure (18 CFR 1.8 or 1.10) on or before December 28, 1959. Failure of any party to appear at and participate in the hearing shall be construed as waiver of and concurrence in omission herein of the intermediate decision procedure in cases where a request therefor is made.

JOSEPH H. GUTRIDE,
Secretary.

[F.R. Doc. 59-10145; Filed, Dec. 2, 1959; 8:45 a.m.]

[Docket No. G-20239]

MISSISSIPPI RIVER FUEL CORP.

Order Providing for Hearing and Suspending Proposed Tariff Sheets

NOVEMBER 25, 1959.

On October 26, 1959, Mississippi River Fuel Corporation (Mississippi) completed the tender for filing of Sixth Revised Sheet No. 2-a and Fourth Revised Sheet No. 2-aa (Rate Schedule No. 7); Third Revised Sheet No. 39-a, Original Sheet No. 39-aa, and First Revised Sheet No. 50 (Rate Schedule No. 8); Third Revised Sheet No. 56-a, Original Sheet No. 56-aa, and First Revised Sheet No. 68 (Rate Schedule No. 9); and First Revised Sheets Nos. 223, 224, 246 and 247 (Rate Schedule No. 15) to its FPC Gas Tariff, Original Volume No. 2, requesting an effective date of November 1, 1959, and proposing an annual increase in its rates of $38,569 or 11.5 percent, based on sales for the year to end October 31, 1960. On October 29, 1959, Mississippi tendered for filing Original Sheets Nos. 281 through 306 (Rate Schedule No. 17) to the above tariff, requesting an effective date of December 1, 1959. Mississippi proposes thereby to supersede and restate its Rate Schedule No. 1 and to effect an annual increase in its rates of $690 or 12.0 percent, based on sales for the year to end November 30, 1960. Mississippi sells gas to Texas Eastern Transmission Company under Rate Schedule No. 7, and to Tennessee Gas Transmission Company (Tennessee), under Rate Schedule Nos. 1, 8, 9, and 15.

Mississippi relies on the terms of the respective contracts in justification of the proposed increased rates. Mississippi cites the periodic escalation clause and the price redetermination provisions in the respective contracts and submits copies of price redetermination letters from Tennessee.

Mississippi also submitted cost data consisting of studies for each of the five fields involved showing an allocation of cost between natural gas, condensate, and oil for the year ended June 30, 1959, based essentially on a relative Btu method. Return at 10 percent on an average investment rate base is claimed. Depreciation and amortization expense is computed at annual rates of 5 percent for gas properties and 8.4 percent for oil properties. Mississippi claims a total cost of service for the five fields of $425,559, compared with revenues under the proposed rates of $246,391 during the test year.

The increased rates and charges provided for in the tariff sheets tendered by Mississippi on October 26, 1959, and October 29, 1959, have not been shown to be justified and may be unjust, unreasonable, unduly discriminatory, or preferential, or otherwise unlawful.

The Commission finds: It is necessary and proper in the public interest and to aid in the enforcement of the Natural Gas Act that the Commission enter upon a public hearing concerning the lawfulness of the rates, charges, classifications, and services contained in Sixth Revised Sheet No. 2-a, Fourth Revised Sheet No. 2-aa, Third Revised Sheet No. 39-a, Original Sheet No. 39-aa, First Revised Sheet No. 50, Third Revised Sheet No. 56-a, Original Sheet No. 56-aa, First Revised Sheet No. 68, First Revised Sheets Nos. 223, 224, 246, and 247, and Original Sheets Nos. 281 through 306 to Mississippi's FPC Gas Tariff, Original Volume No. 2.

The Commission orders:

(A) Pursuant to the authority of the Natural Gas Act, particularly sections 4 and 15 thereof, the Commission's rules of practice and procedure, and the Regulations under the Natural Gas Act (18 CFR Ch. I), a public hearing be held on January 12, 1960 at 10:00 a.m., e.s.t., in a Hearing Room of the Federal Power Commission, 441 G Street, NW., Washington, D.C., concerning the lawfulness of the rates, charges, classifications, and services contained in Sixth Revised Sheet No. 2-a, Fourth Revised Sheet No. 2-aa, Third Revised Sheet No. 39-a, Original Sheet No. 39-aa, First Revised Sheet No. 50, Third Revised Sheet No. 56-a, Original Sheet No. 56-aa, First Revised Sheet No. 68, First Revised Sheets Nos. 223, 224, 246, and 247, and Original Sheets Nos. 281 through 306 to Mississippi's FPC Gas Tariff, Original Volume No. 2.

(B) Pending such hearing and decision thereon Sixth Revised Sheet No. 2-a, Fourth Revised Sheet No. 2-aa, Third Revised Sheet No. 39-a, Original Sheet No. 39-aa, First Revised Sheet No. 50, Third Revised Sheet No. 56-a, Original Sheet No. 56-aa, First Revised Sheet No. 68, First Revised Sheets Nos. 223, 224, 246, and 247, and Original Sheets Nos. 281 through 306 to Mississippi's FPC Gas Tariff, Original Volume No. 2 are suspended and the use thereof deferred until April 26, 1960, and until such further time as they are made effective in the manner prescribed by the Natural Gas Act.

(C) Interested State commissions may participate as provided by §§ 1.8 and 1.37 (f) of the Commission's rules of practice and procedure (18 CFR 1.8 and 1.37(f)).

By the Commission.

JOSEPH H. GUTRIDE,
Secretary.

[F.R. Doc. 59-10146; Filed, Dec. 2, 1959; 8:45 a.m.]

[Docket Nos. G-18151, G-18152]

TENNESSEE GAS TRANSMISSION CO.

Notice of Application and Date of Hearing

NOVEMBER 27, 1959.

Take notice that, Tennessee Gas Transmission Company (Applicant), with its principal place of business in Houston, Texas, filed on March 25, 1959, applications for certificates of public convenience and necessity, pursuant to section 7(c) of the Natural Gas Act,[1] authorizing the Applicant to sell natural gas as hereinafter described, subject to the jurisdiction of the Commission, all as more fully represented in the applications which are on file with the Commission and open to public inspection.

Applicant proposes to make field sales of natural gas to El Paso Natural Gas Company (El Paso) as follows:

(1) In Docket No. G-18151, to sell natural gas from the Joe Berger Lease, Sonora Field, Sutton County, Texas, under a 20-year gas sales contract dated November 15, 1958 between Applicant, as sole seller, and El Paso, as buyer, which has been filed as Applicant's Rate Schedule F-45.

(2) In Docket No. G-18152, to sell natural gas from the W. O. Berger No. 2 Lease, West Huerfano Area, San Juan County, New Mexico, under a 20-year gas sales contract dated February 4, 1959, between Applicant, as sole seller, and El Paso, as buyer, which has been filed as Applicant's Rate Schedule F-44.

The application in Docket No. G-18151 lists El Paso, Applicant, and Dunigan Tool & Supply Company (Dunigan) as the working interest owners in the subject lease.

[1] Amendment filed November 3, 1959, in Docket No. G-18152, covers an additional lease dedicated to basic contract of February 4, 1959, as amended Otcober 8, 1959.

The application in Docket No. G–18152 lists the Applicant as the sole interest owner in the W. O. Berger No. 2 Lease.

Applicant's facilities consist of customary lease equipment. Proposed deliveries will be made at each wellhead.

Both contracts provide for a daily minimum contract delivery rate of an average of not less than 50 percent of each well's daily stabilized production capacity. However, the contract of November 15, 1958, provides that should such production capacity exceed 1,100 Mcf per well, then the minimum daily contract delivery rate shall be 550 Mcf per well.

These related matters should be heard on a consolidated record and disposed of as promptly as possible under the applicable rules and regulations and to that end:

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Power Commission by sections 7 and 15 of the Natural Gas Act, and the Commission's rules of practice and procedure, a hearing will be held on January 6, 1960 at 9:30 a.m., e.s.t., in a Hearing Room of the Federal Power Commission, 441 G Street NW., Washington, D.C., concerning the matters involved in and the issues presented by such applications: *Provided, however,* That the Commission may, after a non-contested hearing, dispose of the proceedings pursuant to the provisions of § 1.30(c) (1) or (2) of the Commission's rules of practice and procedure. Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicant to appear or be represented at the hearing.

Protests or petitions to intervene may be filed with the Federal Power Commission, Washington 25, D.C., in accordance with the rules of practice and procedure (18 CFR 1.8 or 1.10) on or before December 28, 1959. Failure of any party to appear at and participate in the hearing shall be construed as waiver of and concurrence in omission herein of the intermediate decision procedure in cases where a request therefor is made.

JOSEPH H. GUTRIDE,
Secretary.

[F.R. Doc. 59–10147; Filed, Dec. 2, 1959; 8:45 a.m.]

[Docket No. G–17894]

TRI-MARK OIL CO.

Notice of Application and Date of Hearing

NOVEMBER 24, 1959.

Take notice that Tri-Mark Oil Company (Applicant), a Texas partnership composed of Ben D. Marks, Jack Marks and Cedric Marks, with a principal office in Corpus Christi, Texas, filed an application on February 20, 1959, for a certificate of public convenience and necessity in Docket No. G–17894, requesting authorization to continue a sale of natural gas previously made by Pan American Petroleum Corporation (Pan American), to Texas Eastern Transmission Corporation (Texas Eastern) from the J. Bluhm Lease located in the Angel City Field, Goliad County, Texas, under a gas sales contract dated May 15, 1952, as amended, between Stanolind Oil and Gas Company (predecessor in interest to Pan American), seller, and Wilcox Trend Gathering System, Inc. (predecessor in interest to Texas Eastern), buyer, all as more fully described in the application on file with the Commission and open to public inspection.

Applicant states that by instrument of assignment dated December 23, 1958, effective December 1, 1958, Pan American conveyed to Applicant its working interest in the J. Bluhm Lease. Pan American was authorized in Docket No. G–5708 to render the service proposed to be continued by Applicant.

This matter is one that should be disposed of as promptly as possible under the applicable rules and regulations and to that end:

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Power Commission by sections 7 and 15 of the Natural Gas Act, and the Commission's rules of practice and procedure, a hearing will be held on December 17, 1959, at 9:30 a.m., e.s.t., in a Hearing Room of the Federal Power Commission, 441 G Street NW., Washington, D.C., concerning the matters involved in and the issues presented by such application: *Provided, however,* That the Commission may, after a non-contested hearing, dispose of the proceedings pursuant to the provisions of § 1.30(c) (1) or (2) of the Commission's rules of practice and procedure. Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicant to appear or be represented at the hearing.

Protests or petitions to intervene may be filed with the Federal Power Commission, Washington 25, D.C., in accordance with the rules of practice and procedure (18 CFR 1.8 or 1.10) on or before December 15, 1959. Failure of any party to appear at and participate in the hearing shall be construed as waiver of and concurrence in omission herein of the intermediate decision procedure in cases where a request therefor is made.

JOSEPH H. GUTRIDE,
Secretary.

[F.R. Doc. 59–10148; Filed, Dec. 2, 1959; 8:45 a.m.]

[Project No. 2009]

VIRGINIA ELECTRIC AND POWER CO.

Notice of Application for Amendment of License

NOVEMBER 27, 1959.

Public notice is hereby given that application has been filed under the Federal Power Act (16 U.S.C. 791a–825r) by Virginia Electric and Power Company, of Richmond, Virginia, licensee for major Project No. 2009, situated on the Roanoke River in Halifax and Northampton Counties, North Carolina, near Roanoke Rapids, North Carolina, for amendment of its license for the project.

Licensee requests that subparagraph D(2) of the license be amended by substituting therefor certain terms and conditions set forth in a stipulation between the licensee and the North Carolina State regulatory agencies, which pertains to releases of water from the project for the protection of the fishery resources of the Roanoke River. The application requests that the amendment be effective with the commencement of operation of Project No. 2093 (Gaston Dam), for which licensee filed application for license with the Federal Power Commission on August 31, 1951.

Protests or petitions to intervene may be filed with the Federal Power Commission, Washington 25, D.C., in accordance with the rules of practice and procedure of the Commission (18 CFR 1.8 or 1.10). The last date upon which protests or petitions may be filed is January 4, 1960. The application is on file with the Commission for public inspection.

JOSEPH H. GUTRIDE,
Secretary.

[F.R. Doc. 59–10149; Filed, Dec. 2, 1959; 8:45 a.m.]

[Docket No. G–20241]

COLUMBIA GULF TRANSMISSION CO.

Order Providing for Hearing and Suspending Proposed Revised Tariff Sheet

NOVEMBER 27, 1959.

On October 28, 1959, Columbia Gulf Transmission Company (Columbia Gulf), an affiliate of the Columbia Gas System, Inc., tendered for filing First Revised Sheet No. 7 to its FPC Gas Tariff, Original Volume No. 1, proposing an increase in the rate of return of its cost-of-service Rate Schedule T–1 (transportation service) from 6.25 percent to 6.8 percent. Based on data submitted by Columbia Gulf, the proposed rate of return would increase charges to its sole jurisdictional customer, United Fuel Gas Company, by approximately $1,970,000 or 6.0 percent per year, for actual volumes transported during the year ended June 1959. Columbia Gulf requests an effective date of December 1, 1959.

In support of the proposed increase Columbia Gulf claims a rate of return of 6.8 percent is the bare minimum necessary to (1) assure investor's confidence in the financial integrity of the company and its parent, The Columbia Gas System, Inc., (2) maintain credit, (3) attract capital to meet imminent capital requirements and (4) prevent the confiscation of the property of present investors.

Columbia Gulf's cost support is based on actual operations during the year ended June 1959, adjusted to reflect (1) the increase in rate of return, (2) wage and salary increases, (3) annualized charges for the services of Columbia Gas System Service Corporation, (4) a book depreciation adjustment, and (5) increased Federal income taxes resulting from the increase in rate of return and

from reduced interest charges due to refinancing.

The increased rates and charges proposed by Columbia Gulf in First Revised Sheet No. 7 to its FPC Gas Tariff, Original Volume No. 1 have not been shown to be justified and may be unjust, unreasonable, unduly discriminatory, or preferential, or otherwise unlawful.

The Commission finds: It is necessary and proper in the public interest and to aid in the enforcement of the provisions of the Natural Gas Act that the Commission enter upon a public hearing concerning the lawfulness of the rates, charges, classifications, and services contained in Columbia Gulf's FPC Gas Tariff, Original Volume No. 1, as proposed to be amended by First Revised Sheet No. 7, and that said proposed revised tariff sheet and the rates contained therein be suspended and the use thereof deferred as hereinafter provided.

The Commission orders:

(A) Pursuant to the authority of the Natural Gas Act, particularly sections 4 and 15 thereof, the Commission's rules of practice and procedure, and the regulations under the Natural Gas Act (18 CFR Ch. 1), a public hearing be held on a date to be fixed by notice from the Secretary concerning the lawfulness of the rates, charges, classifications, and services contained in Columbia Gulf's FPC Gas Tariff, Original Volume No. 1 as proposed to be amended by First Revised Sheet No. 7.

(B) Pending such hearing and decision thereon First Revised Sheet No. 7 to Columbia Gulf's FPC Gas Tariff, Original Volume No. 1 is suspended and the use thereof deferred until May 1, 1960, and until such further time as it is made effective in the manner prescribed by the Natural Gas Act.

(C) Interested State commissions may participate as provided by §§ 1.8 and 1.37(f) of the Commission's rules of practice and procedure (18 CFR 1.8 and 1.37(f)).

By the Commission.

JOSEPH H. GUTRIDE,
Secretary.

[F.R. Doc. 59-10195; Filed, Dec. 2, 1959; 8:51 a.m.]

[Docket Nos. G-16225—G-16228]

CONTINENTAL OIL CO.

Notice of Applications and Date of Hearing

NOVEMBER 27, 1959.

Take notice that, Continental Oil Company (Applicant) filed on September 9, 1958, in Docket Nos. G-16225 through G-16228, applications for certificates of public convenience and necessity, pursuant to section 7(c) of the Natural Gas Act, authorizing the Applicant to continue the sales of gas as hereinafter described subject to the jurisdiction of the Commission, all as more fully represented in the applications which are on file with the Commission and open to public inspection.

Applicant desires to continue sales of natural gas as follows:

(1) In Docket No. G-16225, to Transcontinental Gas Pipe Line Corporation (Transco) from the South Duson Field, Lafayette Parish, Louisiana, pursuant to a contract dated December 10, 1954, as amended, between Buffalo Oil Company (Buffalo), Applicant's predecessor-in-interest, and Sunray Oil Corporation (Sellers) and Transco (Buyer), previously accepted for filing as Buffalo Oil Company FPC Gas Rate Schedule No. 1.

(2) In Docket No. G-16226, to Cities Service Gas Company (Cities Service) from the West Lawrie Field, Logan County, Oklahoma, pursuant to a contract dated May 20, 1955, between Buffalo and Falcon Seaboard Drilling Company (Sellers) and Cities Service (Buyer), previously accepted for filing as Buffalo Oil Company FPC Gas Rate Schedule No. 2.

(3) In Docket No. G-16227, to El Paso Natural Gas Company (El Paso) from the Eumont Field, Lea County, New Mexico, pursuant to a contract dated January 26, 1956, between Buffalo and El Paso, previously accepted for filing as Buffalo Oil Company FPC Gas Rate Schedule No. 3.

(4) In Docket No. G-16228 to United Gas Pipe Line Company (United) from the Ridge and North Leroy Fields, Lafayette and Vermilion Parishes, Louisiana, under a contract dated January 1, 1957, as amended, between Buffalo and United, previously accepted for filing as Buffalo Oil Company FPC Gas Rate Schedule No. 4.

Each of the aforementioned applications requests that the certificate issued to Buffalo, authorizing Buffalo to render the service now proposed to be rendered by Continental in the respective applications, be vacated.

Applicant states that it purchased the properties involved herein from Buffalo by instrument of assignment executed on August 12, 1958, and that it took physical possession thereof on August 15, 1958. Applicant states in each application the date sales were commenced under the contract related to such application as follows: Docket No. G-16225, October 28, 1955; Docket No. G-16226, December 22, 1955; Docket No. G-16227, September 13, 1956; and Docket No. G-16228, August 1, 1958.

Buffalo, Applicant's predecessor-in-interest, was authorized on August 8, 1958, In the Matters of Transcontinental Gas Pipe Line Corporation, et al., Docket Nos. G-7029, et al., in Docket No. G-8289 to render the service covered in Docket No. G-16225; on January 24, 1956, In the Matters of Cities Service Gas Company, et al., Docket Nos. G-9126, et al., in Docket No. G-9127 to render the service covered in Docket No. G-16226; on March 13, 1957, In the Matters of Southland Royalty Company, et al., Docket Nos. G-10330, et al., in Docket No. G-10397 to render the service covered in Docket No. G-16227; and on May 9, 1958, In the Matters of Sunray Mid-Continent Oil Company, et al., Docket Nos. G-12211, et al., modifying and affirming the decision of the presiding examiner issued February 3, 1958, in Docket No. G-12214, to render the service covered in Docket No. G-16228.

These related matters should be heard on a consolidated record and disposed of as promptly as possible under the applicable rules and regulations and to that end:

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Power Commission by sections 7 and 15 of the Natural Gas Act, and the Commission's rules of practice and procedure, a hearing will be held on January 6, 1960, at 9:30 a.m., e.s.t., in a Hearing Room of the Federal Power Commission, 441 G Street NW., Washington, D.C., concerning the matters involved in and the issues presented by such applications: *Provided, however,* That the Commission may, after a non-contested hearing, dispose of the proceedings pursuant to the provisions of § 1.30(c) (1) or (2) of the Commission's rules of practice and procedure. Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicant to appear or be represented at the hearing.

Protests or petitions to intervene may be filed with the Federal Power Commission, Washington 25, D.C., in accordance with the rules of practice and procedure (18 CFR 1.8 or 1.10) on or before December 28, 1959. Failure of any party to appear at and participate in the hearing shall be construed as waiver of and concurrence in omission herein of the intermediate decision procedure in cases where a request therefor is made.

JOSEPH H. GUTRIDE,
Secretary.

[F.R. Doc. 59-10196; Filed, Dec. 2, 1959; 8:52 a.m.]

[Docket Nos. G-19722—G-19731]

HUSKY OIL CO. ET AL.

Order for Hearing and Suspending Proposed Changes in Rates [1]

OCTOBER 22, 1959.

In the matters of Husky Oil Company, Docket No. G-19722; Sinclair Oil & Gas Company, Docket No. G-19723; Sinclair Oil & Gas Company, et al., Docket No. G-19724; L. R. French, Jr. (Operator), et al., Docket No. G-19725; L. R. French, Jr., Docket No. G-19726; Southland Royalty Company, Docket No. G-19727; Delhi-Taylor Oil Corporation, Docket No. G-19728; Mound Company (Operator), et al., Docket No. G-19729; Houston Natural Gas Production Company (Operator), et al., Docket No. G-19730; St. Clair Oil Company, Docket No. G-19731.

The above-named Respondents have tendered for filing proposed changes in presently effective rate schedules for sales of natural gas subject to the jurisdiction of the Commission. The proposed changes are designated as follows:

[1] This order does not provide for the consolidation for hearing or disposition of the separately docketed matters covered herein, nor should it be so construed.

Docket No.	Respondent	Rate schedule No.	Supplement No.	Purchaser	Notice of change dated—	Tendered	Effective date [2]	Date Suspended until—
G-19722	Husky Oil Co	[3] 3	5	El Paso Natural Gas Co.	Not dated	9-25-59	11- 1-59	4- 1-60
G-19723	Sinclair Oil & Gas Co.	170	1	do	9-23-59	9-24-59	10-25-59	3-25-60
G-19723	do	[4] 145	2	do	9-23-59	9-24-59	10-25-59	3-25-60
G-19723	do	[5] 8	17	do	9-23-59	9-24-59	10-25-59	3-25-60
G-19723	do	83	2	do	9-23-59	9-24-59	10-25-59	3-25-60
G-19724	Sinclair Oil & Gas Co., et al.	[6] 71	2	do	9-23-59	9-24-59	10-25-59	3-25-60
G-19724	do	[7] 65	5	do	9-23-59	9-24-59	10-25-59	3-25-60
G-19725	L. R. French, Jr. (Operator) et al.	[9] 2	3	do	9-26-59	9-28-59	10-29-59	3-29-60
G-19725	do	[9] 1	2	do	9-28-59	9-30-59	10-31-59	3-31-60
G-19726	L. R. French, Jr.	5	2	do	9-28-59	9-30-59	10-31-59	3-31-60
G-19727	Southland Royalty Co.	16	1	do	9-29-59	9-29-59	10-30-59	3-30-60
G-19728	Delhi-Taylor Oil Corp.	22	2	do	9-21-59	10- 1-59	11- 1-59	4- 1-60
G-19729	Mound Co. (Operator), et al.	[10] 1	7	Texas Gas Pipe Line Corp.	9-23-59	9-25-59	10-26-59	3-26-60
G-19730	Houston Natural Gas Production Co. (Operator), et al.	[11] 2	21	do	Not dated	9-28-59	10-29-59	3-29-60
G-19731	St. Clair Oil Co	3	1	Equitable Gas Co	9-17-59	9-28-59	10-29-59	3-29-60

[2] The stated effective dates are those requested by Respondent, or the first day after the expiration of statutory notice, whichever is later.
[3] Rate in effect subject to refund in Docket No. G-15312.
[4] Rate in effect subject to refund in Docket No. G-15030.
[5] Rate in effect subject to refund in Docket No. G-13981.
[6] Rate in effect subject to refund in Docket No. G-14105.
[7] Rate in effect subject to refund in Docket No. G-15172.
[9] Rate in effect subject to refund in Docket No. G-14685.
[10] Rate in effect subject to refund in Docket No. G-15178.
[11] Rate of 13.93248 cents in effect to refund in Docket No. G-15015.

Husky Oil, Sinclair, Sinclair (Operator), L. R. French, L. R. French (Operator), Southland Royalty, and Delhi-Taylor, in support of their increases, cite favored-nation contract provisions and submit copies of notification letters from El Paso. El Paso, in turn, has protested each of the increased filings and requests their rejection as being unilateral and because such increases are based upon "spiral escalation" clauses heretofore held by the Commission to be contrary to the public interest as a matter of law.

Mound and Houston cite contract price redetermination provisions and submit copies of a redetermination letter from Texas Gas. The contracts state that the price shall be the average of the three highest prices paid to different producers in the area. The actual price bases for the proposed rates, however, are not indicated by the Applicants, who state only that the prevailing rates in the area would not be exceeded, and indicate that the increases are necessary to meet the producers' minimum revenue requirements. Houston states also that its proposed rate will not trigger other producer contracts in the area.

St. Clair recites that its renegotiated rate increase is necessary to offset increased cost of exploration and equipment and to assure production of natural gas. Applicant submits a letter from Equitable dated August 31, 1959, wherein Equitable agrees to the proposed rate contingent upon approval of the Commission.

The increased rates and charges so proposed have not been shown to be justified, and may be unjust, unreasonable, unduly discriminatory, or preferential, or otherwise unlawful.

The Commission finds: It is necessary and proper in the public interest and to aid in the enforcement of the provisions of the Natural Gas Act that the Commission enter upon hearings concerning the lawfulness of the several proposed changes and that the above-designated supplements be suspended and the use thereof deferred as hereinafter ordered.

The Commission orders:

(A) Pursuant to the authority of the Natural Gas Act, particularly sections 4 and 15 thereof, the Commission's rules of practice and procedure and the regulations under the Natural Gas Act (18 CFR Ch. I), public hearings be held upon dates to be fixed by notices from the Secretary concerning the lawfulness of the several proposed increased rates and charges contained in the above-designated supplements.

(B) Pending hearing and decision thereon, each of the aforementioned supplements is suspended and the use thereof deferred until the date specified in the above-designated "Rate Suspended Until" column and thereafter until such further time as it is made effective in the manner prescribed by the Natural Gas Act.

(C) Neither the supplements hereby suspended, nor the rate schedules sought to be altered thereby, shall be changed until these proceedings have been disposed of or until the periods of suspension have expired, unless otherwise ordered by the Commission.

(D) Interested State commissions may participate as provided by §§ 1.8 and 1.37(f) of the Commission's rules of practice and procedure (18 CFR 1.8 and 1.37(f)).

By the Commission.

JOSEPH H. GUTRIDE,
Secretary.

[F.R. Doc. 59-10198; Filed, Dec. 2, 1959; 8:52 a.m.]

[Docket No. G-20230]

HUMBLE OIL & REFINING CO.

Order Providing for Hearing and Suspending Proposed Change in Rate

NOVEMBER 27, 1959.

On October 30, 1959, Humble Oil & Refining Company (Humble), tendered for filing a proposed change in its presently effective rate schedule for the sale of natural gas subject to the jurisdiction of the Commission. The proposed change, which constitutes an increase in rate and charge, is contained in the following designated filing:

Description: Notice of Change, Dated October 26, 1959.

Purchaser and producing area: West Lake Natural Gasoline Company (Nena Lucia Fld., Nolan Co., Texas).

Rate schedule designation: Supplement No. 2 to Humble Oil & Refining Company's FPC Gas Rate Schedule No. 141.

Effective date: January 22, 1960.[1]

Rate in effect: 5.5 cents per Mcf.

Proposed increased rate: 6.9918 cents per Mcf.

Humble Oil proposes its increase on the basis of a revenue-sharing plan with West Lake Natural Gasoline Company, whereby Humble and several other producers are paid collectively fifty percent of the resale price which West Lake receives from El Paso Natural Gas Company for residue gas.

Humble's increase is based upon a favored-nation increase in West Lake's rate to El Paso, now under suspension in Docket No. G-19156. Humble states that no affiliation exists between it and West Lake, that the rate sought would be reasonable, and is in line with other area prices.

The proposed rate has not been shown to be justified and may be unjust, unreasonable, unduly discriminatory, or preferential, or otherwise unlawful.

The Commission finds: It is necessary and proper in the public interest and to aid in the enforcement of the provisions of the Natural Gas Act that the Commission enter upon a hearing concerning the lawfulness of the proposed changes and that Supplement No. 2 to Humble's FPC Gas Rate Schedule No. 141, be suspended and the use thereof deferred as hereinafter ordered.

The Commission orders:

(A) Pursuant to the authority of the Natural Gas Act, particularly sections 4 and 15 thereof, the Commission's rules of practice and procedure, and the regulations under the Natural Gas Act (18 CFR Ch. I), a public hearing shall be held upon a date to be fixed by notice from the Secretary concerning lawfulness of the proposed increased rate and charge contained in Supplement No. 2 to Humble's FPC Gas Rate Schedule No. 141.

(B) Pending the hearing and decision thereon, the supplement is hereby sus-

[1] Or date when West Lake's suspended rate in Docket No. G-19156 becomes effective, whichever is later. The date of January 22, 1960 is that requested by Respondent.

pended and the use thereof deferred until January 23, 1960, or one day from such date as West Lake's suspended rate is made effective, whichever is later and until such further time as it is made effective in the manner prescribed by the Natural Gas Act.

(C) Neither the supplement hereby suspended nor the rate schedule sought to be altered thereby shall be changed until this proceeding has been disposed of or until the period of suspension has expired, unless otherwise ordered by the Commission.

(D) Interested State commissions may participate as provided by §§ 1.8 and 1.37(f) of the Commission's rules of practice and procedure (18 CFR 1.8 or 1.37(f)).

By the Commission.

JOSEPH H. GUTRIDE,
Secretary.

[F.R. Doc. 59-10197; Filed, Dec. 2, 1959; 8:52 a.m.]

[Docket No. G-20255]

PHILLIPS PETROLEUM CO.

Order for Hearing and Suspending Proposed Changes in Rates

NOVEMBER 27, 1959.

Phillips Petroleum Company (Phillips) on October 29, 1959, tendered for filing three proposed changes in its presently effective rate schedules together with an offer of settlement[1] of suspended increased rate proposals thereunder for its jurisdictional sales of natural gas to Texas Eastern Transmission Corporation (Texas Eastern). The proposed changes, which constitute increased rates and charges for sales from the North Port Neches Field, Orange County, Texas and the West George West Field, Live Oak County, Texas, are contained in the following designated filings:

Description: Notices of Change, dated October 26, 1959.

Rate schedule designations: (1) Supplement No. 15 to Phillips' FPC Gas Rate Schedule No. 2-A.[2] (2) Supplement No. 7 to Phillips' FPC Gas Rate Schedule No. 275. (3) Supplement No. 7 to Phillips' FPC Gas Rate Schedule No. 281.

Increased rate proposed: (1) 0.4811 cents per Mcf, from 14.1189 cents to 14.6 cents per Mcf at 14.65 psia. (2) and (3) 2.5479 cents per Mcf, from 11.8254 cents to 14.3733 cents per Mcf at 14.65 psia.

Effective date: November 29, 1959. The stated effective date is the effective date proposed by Phillips.

In support of its favored-nation increased rate proposal in said Supplement No. 15 and its renegotiated increased rate proposals in said Supplements No. 7, Phillips stated that it would agree to eliminate the favored-nation and price-redetermination clauses from the aforementioned rate schedules and to replace the present 0.2 cent per Mcf yearly escalation by 1.0 cent per Mcf periodic increases under Rate Schedule No. 2-A and by 0.5 cent per Mcf under Rate Schedules Nos. 275 and 281.

The increased rates and charges so proposed have not been shown to be justified, and may be unjust, unreasonable, unduly discriminatory, or preferential, or otherwise unlawful.

The Commission finds: It is necessary and proper in the public interest and to aid in the enforcement of the provisions of the Natural Gas Act that the Commission enter upon a hearing concerning the lawfulness of the said proposed changes, and that Supplement No. 15 to Phillips' FPC Gas Rate Schedule 2-A, and Supplements No. 7 to Phillips' FPC Gas Rate Schedules Nos. 275 and 281, respectively, be suspended and the use thereof deferred as hereinafter ordered.

The Commission orders:

(A) Pursuant to the authority of the Natural Gas Act, particularly sections 4 and 15 thereof, the Commission's rules of practice and procedure and the regulations under the Natural Gas Act (18 CFR, Ch. I), a public hearing be held upon a date to be fixed by notice from the Secretary concerning the lawfulness of the proposed increased rates and charges contained in Supplement No. 15 to Phillips' FPC Gas Rate Schedule 2-A, and Supplements No. 7 to Phillips' FPC Gas Rate Schedules Nos. 275 and 281, respectively.

(B) Pending such hearing and decision thereon, said supplements be and they each are hereby suspended and the use thereof deferred until April 29, 1960, and thereafter until such further time as each is made effective in the manner prescribed by the Natural Gas Act.

(C) Neither the supplements hereby suspended, nor the rate schedules sought to be altered thereby, shall be changed until this proceeding has been disposed of or until the periods of suspension have expired, unless otherwise ordered by the Commission.

(D) Interested state commissions may participate as provided by §§ 1.8 and 1.37(f) of the Commission's rules of practice and procedure (18 CFR 1.8 and 1.37(f)).

By the Commission.

JOSEPH H. GUTRIDE,
Secretary.

[F.R. Doc. 59-10199; Filed, Dec. 2, 1959; 8:52 a.m.]

[1] Phillips' Offer of Settlement was filed October 29, 1959, in Docket Nos. G-11309, G-13398, G-13419, G-16625, and G-19581.

[2] The presently effective rate is subject to refund in Docket No. G-16625.

SECURITIES AND EXCHANGE COMMISSION

[File No. 24NY-4691]

AELUS WING CO., INC.

Order Granting Withdrawal of Request for Hearing

NOVEMBER 23, 1959.

The Commission by order dated October 6, 1959 having temporarily suspended the Regulation A exemption of Aelus Wing Company, Incorporated, pursuant to Rule 261 of the general rules and regulations under the Securities Act of 1933, as amended, and Aelus Wing Company, Incorporated having requested a hearing upon the allegations set forth in the aforementioned order, and

The Company, prior to a hearing being ordered in accordance with such request, having requested a withdrawal of its request for a hearing, and the Division of Corporation Finance not objecting thereto,

It is ordered, That the request for hearing be and it hereby is deemed withdrawn.

Pursuant to the provisions of Rule 261(b) of Regulation A, the suspension of the Regulation A exemption from registration under the Securities Act of 1933, as amended, with respect to the proposed public offering of securities by the Company becomes permanent.

By the Commission.

[SEAL] NELLYE A. THORSEN,
Assistant Secretary.

[F.R. Doc. 59-10159; Filed, Dec. 2, 1959; 8:47 a.m.]

[File No. 1-2645]

F. L. JACOBS CO.

Order Summarily Suspending Trading

NOVEMBER 27, 1959.

I. The common stock, $1.00 par value, of F. L. Jacobs Co. is registered on the New York Stock Exchange and admitted to unlisted trading privileges on the Detroit Stock Exchange, national securities exchanges, and

II. The Commission on February 11, 1959, issued its order and notice of hearing under section 19(a)(2) of the Securities Exchange Act of 1934 to determine at a hearing beginning March 16, 1959, whether it is necessary or appropriate for the protection of investors to suspend for a period not exceeding twelve months, or to withdraw, the registration of the capital stock of F. L. Jacobs Co. on the New York Stock Exchange and Detroit Stock Exchange for failure to comply with section 13 of the Act and the rules and regulations thereunder.

On November 17, 1959, the Commission issued its order summarily suspending trading of said securities on the exchanges pursuant to section 19(a)(4) of the Act for the reasons set forth in said order to prevent fraudulent, deceptive or manipulative acts or practices for a period of ten days ending November 27, 1959.

III. The Commission being of the opinion that the public interest requires the summary suspension of trading in such security on the New York Stock Exchange and Detroit Stock Exchange and that such action is necessary and appropriate for the protection of investors; and

The Commission being of the further opinion that such suspension is necessary in order to prevent fraudulent, deceptive or manipulative acts or practices, trading in the stock of F. L. Jacobs Co. will be unlawful under section 15(c)(2) of the

Securities Exchange Act of 1934 and the Commission's Rule 240.15c2-2 (17 CFR 240.15c2-2) thereunder for any broker or dealer to make use of the mails or of any means or instrumentality of interstate commerce to effect any transaction in, or to induce or attempt to induce the purchase or sale of such security, otherwise than on a national securities exchange.

It is ordered, Pursuant to section 19 (a) (4) of the Securities Exchange Act of 1934 that trading in said security on the New York Stock Exchange and Detroit Stock Exchange be summarily suspended in order to prevent fraudulent, deceptive or manipulative acts or practices, this order to be effective for a period of ten (10) days, November 28, 1959, to December 7, 1959, inclusive.

By the Commission.

[SEAL] NELLYE A. THORSEN, *Assistant Secretary.*

[F.R. Doc. 59-10160; Filed, Dec. 2, 1959; 8:47 a.m.]

DEPARTMENT OF JUSTICE

Office of Alien Property

COMPAGNIE FRANCAISE DES PRODUITS CHIMIQUES & INDUSTRIELLES DE SUD-EST, ET AL.

Notice of Intention to Return Vested Property

Pursuant to section 32(f) of the Trading With the Enemy Act, as amended, notice is hereby given of intention to return, on or after 30 days from the date of publication hereof, the following property, subject to any increase or decrease resulting from the administration thereof prior to return, and after adequate provision for taxes and conservatory expenses:

Claimant, Claim No., Property, and Location

Compagnie Francaise des Produits Chimiques & Industrielles du Sud-Est ("St. Clair"), Paris 17, France; Claim No. 5140; $3,849.41 in the Treasury of the United States.

Manufactures de Produits Chimiques du Nord "Establissements Kuhlmann", Paris 8, France; Claim No. 5142; $44,986.98 in the Treasury of the United States.

Societe de Produits Chimiques & Matieres Colorantes de Mulhouse; Paris 17, France; Claim No. 5143; $194.41 in the Treasury of the United States.

Vesting Order No. 167.

Executed at Washington, D.C., on November 23, 1959.

For the Attorney General.

[SEAL] PAUL V. MYRON, *Deputy Director, Office of Alien Property.*

[F.R. Doc. 59-10166; Filed, Dec. 2, 1959; 8:48 a.m.]

INTERSTATE COMMERCE COMMISSION

[Notice 230]

MOTOR CARRIER TRANSFER PROCEEDINGS

NOVEMBER 30, 1959.

Synopses of orders entered pursuant to section 212(b) of the Interstate Commerce Act, and rules and regulations prescribed thereunder (49 CFR Part 179), appear below:

As provided in the Commission's special rules of practice any interested person may file a petition seeking reconsideration of the following numbered proceedings within 20 days from the date of publication of this notice. Pursuant to section 17(8) of the Interstate Commerce Act, the filing of such a petition will postpone the effective date of the order in that proceeding pending its disposition. The matters relied upon by petitioners must be specified in their petitions with particularity.

No. MC-FC 62553. By order of November 27, 1959, the Transfer Board approved the transfer to Marshall Storage Company, a corporation, Marshall, Minn., of Certificate No. MC 115233 issued January 5, 1956, in the name of G. E. Bennett, doing business as Marshall Storage Truck Line, Marshall, Minn., authorizing the transportation of sugar over irregular routes, from Marshall, Minn., to Aberdeen, Beresford, Brookings, Huron, Madison, Milbank, Mitchell, Redfield, Scotland, Sioux Falls, Sisseton, Watertown, and Yanktown, S. Dak. Don S. Molter, Marshall Theatre Building, Marshall, Minn., for applicants.

No. MC-FC 62660. By order of November 27, 1959, the Transfer Board approved the transfer to Apex Transportation, Inc., Worcester, Mass., of a portion of Certificate No. MC 78245, issued April 21, 1949, in the name of Cities Transportation, Inc., Nashua, N.H., authorizing the transportation of liquid petroleum products, in bulk, in tank trucks, over a regular route, from Providence, R.I., to Worcester, Mass. Francis E. Barrett, Jr., 7 Water St., Boston 9, Mass., for transferee. Joseph A. Kline, 185 Devonshire Street, Boston 10, Mass., for transferor.

No. MC-FC 62683. By order of November 27, 1959, the Transfer Board approved the transfer to Isadore Berman, 422 Morris Street, Philadelphia, Pa., of the operating rights in Certificate No. MC 64665, issued by the Commission August 12, 1953, to Jack M. Gercasky, R.D. No. 1, Tuckahoe Road, Franklinville, New Jersey, authorizing the transportation of household goods, over irregular routes, between Philadelphia, Pa., on the one hand, and, on the other, points in Delaware and New Jersey.

[SEAL] HAROLD D. MCCOY, *Secretary.*

[F.R. Doc. 59-10163; Filed, Dec. 2, 1959; 8:48 a.m.]

FLOYD A. MECHLING

Statement of Changes in Financial Interests

Pursuant to subsection 302(c), Part II, Executive Order 10647 (20 F.R. 8769) "Providing for the Appointment of Certain Persons under the Defense Production Act of 1950, as amended," I hereby furnish for filing with the Division of the Federal Register for publication in the FEDERAL REGISTER the following information showing any changes in my financial interests and business connections as heretofore reported and published. (22 F.R. 996; 22 F.R. 6548; 23 F.R. 1062; 23 F.R. 6730; 24 F.R. 552; 24 F.R. 6251) during the six months' period ended November 29, 1959.

No changes.

Dated: November 29, 1959.

[SEAL] F. A. MECHLING.

[F.R. Doc. 59-10162; Filed, Dec. 2, 1959; 8:48 a.m.]

FOURTH SECTION APPLICATIONS FOR RELIEF

NOVEMBER 27, 1959.

Protests to the granting of an application must be prepared in accordance with Rule 40 of the general rules of practice (49 CFR 1.40) and filed within 15 days from the date of publication of this notice in the FEDERAL REGISTER.

LONG-AND-SHORT HAUL

FSA No. 35854: *Substituted service—CRI&P for Watson Bros. Transportation Co., Inc.* Filed by Middlewest Motor Freight Bureau, Agent (No. 204), for interested carriers. Rates on property loaded in highway trailers and transported on railroad flat cars between Wichita, Kans., on the one hand, and Des Moines, Iowa, Peoria and Moline, Ill., and St. Paul (Inver Grove), Minn., on the other, also between St. Joseph, Mo., on the one hand, and St. Louis, Mo., on the other, on traffic originating at or destined to points beyond referred to in the application.

Grounds for relief: Motor-truck competition.

Tariff: Supplement 117 to Middlewest Motor Freight Bureau tariff MF-I.C.C. 223.

FSA No. 35855: *Acetone and related articles—Texas points to Chicago (Argo), Ill.* Filed by Southwestern Freight Bureau, Agent (No. B-7695), for interested rail carriers. Rates on acetone, butyl acetate, butyl alcohol, and related chemicals, in tank-car loads from Bishop and Corpus Christi, Tex., to Chicago (Argo), Ill.

Grounds for relief: Truck-barge competition.

Tariff: Supplement 646 to Southwestern Freight Bureau tariff I.C.C. 4139.

FSA No. 35857: *Iron or steel scrap from Pennsylvania points to Calvert, Ky.* Filed by O. E. Schultz, Agent (ER No. 2522), for interested rail carriers. Rates on iron or steel scrap (not copper clad), in carloads, as more fully described in the application from Brackenridge, Bridgeville, Donora, Donora (Baird), Pittsburgh, Pittsburgh (West End), and Vandergrift, Pa., to Calvert, Ky.

Grounds for relief: Market competition with Pittsburgh District points.

Tariff: Supplement 145 to Traffic Executive Association-Eastern Railroads tariff I.C.C. A–1079 (Boin series).

FSA No. 35858: *Caustic soda to Enka, N.C., Kingsport and Port Rayon, Tenn.* Filed by O. W. South, Jr., Agent (SFA No. A3872), for interested rail carriers. Rates on sodium (soda), liquid, caustic, in tank-car loads from points in Alabama, Georgia, Louisiana, Kentucky, Tennessee, Ohio, Michigan, New York, and West Virginia to Enka, N.C., Kingsport and Port Rayon, Tenn.

Grounds for relief: Market competition with Saltville, Va.

Tariff: Supplement 110 to Southern Freight Association tariff I.C.C. 1536 and other schedules named in the application.

FSA No. 35859: *Petroleum and petroleum products between points in southern territory.* Filed by O. W. South, Jr., Agent (SFA No. A3871), for interested rail carriers. Rates on petroleum and petroleum products, in packages, in carloads between points in southern territory, including Ohio and Mississippi River crossings, Washington, D.C., and points in Virginia and West Virginia.

Grounds for relief: Truck competition, short-line distance formula, grouping, relief line arbitraries, and operation through higher-rated territories.

Tariff: Southern Freight Association tariff I.C.C. S–85.

AGGREGATE OF INTERMEDIATES

FSA No. 35856: *Acetone and related articles—Texas points to Chicago (Argo), Ill.* Filed by Southwestern Freight Bureau, Agent (No. B–7696), for interested rail carriers. Rates on acetone, butyl acetate, butyl alcohol, and related chemicals, in tank-car loads from Bishop and Corpus Christi, Tex., to Chicago (Argo), Ill.

Grounds for relief: Maintenance of depressed truck-barge competitive rates from and to named points without observing same in constructing combination rates from or to points beyond.

Tariff: Supplement 646 to Southwestern Freight Bureau tariff I.C.C. 4139.

By the Commission.

[SEAL] HAROLD D. McCOY, *Secretary.*

[F.R. Doc. 59–10124; Filed, Dec. 1, 1959; 8:47 a.m.]

CUMULATIVE CODIFICATION GUIDE—DECEMBER

A numerical list of parts of the Code of Federal Regulations affected by documents published to date during December. Proposed rules, as opposed to final actions, are identified as such.

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